

Washington, Wednesday, June 8, 1960

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Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the

section numbers as well as the part numbers affected.

3 CFR PROCLAMATIONS: Dec. 22, 1932 (see F.R. Doc. 60-5161) EXECUTIVE ORDERS: 5339 (see F.R. Doc. 60-5161)		43 CFR 160	5085 5126
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Announcement

CFR SUPPLEMENTS

(As of January 1, 1960)

The following Supplement is now available:

Title 16, Revised_____ \$6.50

Previously announced: Title 3 (\$0.60); Titles 4-5 (\$1.00); Title 7, Parts 1—50 (\$0.45); Parts 51—52 (\$0.45); Parts 53-209 (\$0.40); Parts 210-399, Revised (\$4.00); Parts 900-959 (\$1.50); Part 960 to End (\$2.50); Title 8 (\$0.40); Title 9 (\$0.35); Titles 10-13 (\$0.50); Title 14, Parts 1-39 (\$0.65); Title 15 (\$1.25); Title 18 (\$0.55); Title 19 (\$1.00); Title 20 (\$1.25); Title 21 (\$1.50); Titles 22-23 (\$0.45); Title 24 (\$0.45); Title 25 (\$0.45); Title 26 (1939), Parts 1-79 (\$0.40); Parts 80-169 (\$0.35); Parts 170-182 (\$0.35); Parts 300 to End (\$0.40); Title 26, Part 1 (\$\$ 1.01-1.499) (\$1.75); Parts 1 (\$ 1.500 to End)-19 (\$2.25); Parts 20-169 (\$1.75); Parts 170-221 (\$2.25); Part 300 to End (\$1.25); Titles 28-29 (\$1.75); Titles 30-31 (\$0.50); Title 32, Parts 1-399 (\$2.00); Parts 400-699 (\$2.00); Parts 700-799 (\$1.00); Parts 800-999, Revised (\$3.75); Part 1100 to End (\$0.60); Title 33 (\$1.75); Title 35, Revised (\$3.50); Title 36, Revised (\$3.00); Title 37, Revised (\$3.50); Title 38 (\$1.00); Title 39 (\$1.50); Title 42, Revised (\$4.00); Title 43 (\$1.00); Title 46, Parts 1-145 (\$1.00); Parts 146-149, Revised (\$6.00); Part 150 to End (\$0.65); Title 47, Parts 1-29 (\$1.00); Part 30 to End (\$0.30); Title 49, Parts 1-70 (\$1.75); Parts 71-90 (\$1.00); Parts 91-164 (\$0.45); Part 165 to End (\$1.00); Title 50 (\$0.70).

Order from the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

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Rules and Regulations

Title 5—ADMINISTRATIVE **PERSONNEL**

Chapter I-Civil Service Commission PART 6-EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of the Air Force

Effective upon publication in the FED-ERAL REGISTER, paragraph (d) of § 6.107 is amended as set out below.

§ 6.107 Department of the Air Force.

(d) United States Air Force Academy, Colorado. (1) Positions of Cadet Hostesses. Instructors in Physical Education, and two Instructors in Music (Choirmasters).

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERV-ICE COMMISSION, [SEAL] MARY V. WENZEL, Executive Assistant.

[F.R. Doc. 60-5168; Filed, June 7, 1960; 8:47 a.m.]

PART 6-EXCEPTIONS FROM THE COMPETITIVE SERVICE

Commission on Civil Rights

Effective upon publication in the FED-ERAL REGISTER, paragraph (c) of § 6.360

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERV-ICE COMMISSION, [SEAL] MARY V. WENZEL,

Executive Assistant.

[F.R. Doc. 60-5169; Filed, June 7, 1960;

Title 6—AGRICULTURAL

Chapter III—Farmers Home Administration, Department of Agriculture SUBCHAPTER B-FARM OWNERSHIP LOANS

[FHA Instruction 443.3]

PART 333—PROCESSING SUBSEQUENT LOANS

Part 333, Title 6, Code of Federal Regulations (21 F.R. 5553, 10447, 22 F.R. 465, 1586, 2503, 10483, 23 F.R. 161, 3965, 10507, 25 F.R. 673), is revised to read as follows:

333.1 General.

333.2 Authority.

333.3 Subsequent direct loans.

Subsequent insured loan to a person 333.4 indebted for a direct or insured Farm Ownership loan.

Subsequent insured loan to an eligible 333.5 applicant to refinance a direct or insured Farm Ownership loan in connection with a transfer.

AUTHORITY: §§ 333.1 to 333.5 issued under sec. 41, 50 Stat. 528, as amended, sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100; 7 U.S.C. 1015, 42 U.S.C. 1480, 40 U.S.C. 442; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188. §§ 333.1, 333.4, 333.5 also issued under secs. 1, 2, 3, 44, 50 Stat. 522, as amended, 523, as amended, 530, as amended, secs. 11, 12, 60 Stat. 1075, as amended, 1076, as amended, sec. 16, 69 Stat. 553, as amended, sec. 17, 70 Stat. 802, as amended, sec. 18, 72 Stat. 840; 7 U.S.C. 1001, 1002, 1003, 1018, 1005a, 1005b, 1006c, 1006d, 1006e. Additional authority is cited in parentheses following the sections affected.

§ 333.1 General.

This part prescribes the authority, policies, and procedures for processing subsequent direct and insured Farm Ownership loans. The term "subsequent loan," as used in this part, means a Farm Ownership loan to a person who is indebted for a direct or insured Farm Ownership loan, a direct Farm Ownership loan made in connection with a credit sale of real estate on Farm Ownership terms, or a direct or insured Farm Ownership loan made to a transferee in connection with the transfer of a Farm Ownership farm. "Farm Ownership debt" means any amount owed by a Farm Ownership borrower on his Farm Ownership account. "Holder" means the current holder of the insured note, and, when applicable, also the insured mortgage and related instruments. "Private holder" means any holder other than the insurance fund or the United States as Trustee for a State Rural Rehabilitation Corporation under an agreement pursuant to section 2(f) of the Rural Rehabilitation Corporation Trust Liquidation Act (40 U.S.C. 440 (f)). If the subsequent credit needs of a Farm Ownership borrower can be met with a Farm Housing loan, the special requirements contained in § 383.6(e) of this chapter will apply.

(a) A subsequent Farm Ownership loan may be made for the same purposes and under the same conditions as an initial Farm Ownership loan, including the development of an underdeveloped farm or enlargement of an undersized farm into an adequate family-type farm,

(1) May include funds to pay equity to a transferor in connection with the transfer of a farm which is security for a Farm Ownership loan if the transaction will result in the transferee becoming the owner-operator of a family-type farm.

(2) May include funds for the payment of principal and interest owed on an existing direct Farm Ownership loan

being refinanced in accordance with this

(3) In case the borrower is indebted for an insured loan, the subsequent loan may include funds to pay the holder the unpaid principal balance plus accrued interest owed to the holder, as well as the following items when the borrower or transferee is unable to pay them from personal funds:

(i) Any amount owed the insurance fund for advances made on behalf of the borrower.

(ii) Any amount owed the insurance fund for annual loan insurance charges for loans evidenced by Form FHA-240, "Promissory Note," or Form FHA-360 "Promissory Note."

(iii) The portion of the unpaid interest on the note account that represents the annual charge on the loan being refinanced when the loan is evidenced by Form FHA-251, "Promissory Note (Insured FO Loan)." (Since the annual charge in such cases is a fractional part of the accrued interest on the note account, there always will be an annual charge to be collected.)

(b) Ordinarily, a subsequent Farm Ownership loan, or a Farm Housing loan to a Farm Ownership borrower, will not be processed if the amount of funds required is less than \$1,000 because of the costs involved in proportion to the amount of the loan.

(c) Ordinarily, a subsequent Farm Ownership loan will be amortized so as to mature within one year of the maturity date of the earliest existing Farm Ownership note. The loan may be amortized over a longer period if the approval official determines that a longer payment period is necessary, but in no case will it be amortized over a period longer than 40 years from the date of the subsequent Farm Ownership note. The note and security instrument taken in connection with the subsequent Farm Ownership loan will indicate the proper amortization period of the loan.

(d) For a subsequent direct Farm Ownership loan, title clearance and loan closing will be accomplished in accordance with Part 307 of this chapter. For a subsequent insured Farm Ownership loan, closing instructions will be issued by the Attorney in Charge in each case.

(e) A new appraisal report will be required in connection with a subsequent Farm Ownership loan only when:

(1) Subsequent loan funds will be used to purchase land or to refinance. debts against land not covered by the mortgage for the initial Farm Ownership loan; or

(2) The latest appraisal report was made on a different basis (normal earning capacity value or normal market value) than the type of appraisal applicable to the subsequent loan; or

- (3) The County Committee, County Supervisor, or loan approval official requests a new appraisal report; or
- (4) The physical characteristics of the farm have changed significantly or will be changed as a result of the subsequent loan.
- (f) The County Committee will certify again, on Form FHA-491, "County Committee Certification (Farm Ownership Loans)," as to the fair and reasonable value of the farm, after the contemplated improvements are made. The Committee will take into consideration any information on farm production that has become available as a result of operating history, as well as the normal earning capacity value or the normal market value of the farm as indicated on the latest appraisal report.
- (g) Escrow arrangements may be used with the advice of the Attorney in Charge, provided the escrow agent is properly bonded. No escrow arrangements will be initiated by the Farmers Home Administration and no part of the expense for an escrow arrangement will be paid by the Government.

§ 333.2 Authority.

The State Director is authorized to approve or disapprove subsequent Farm Ownership loans. This authority may be redelegated in writing by the State Director to one or more of the following State Office employees: Chief, Real Estate Loans; Chief, Program Operations; Program Loan Officer; or Real Estate Loan Officer.

§ 333.3 Subsequent direct loans.

- (a) Direct loan to insured loan borrower. A direct Farm Ownership loan will not be made to an insured loan borrower unless prior approval is received from the National Office.
- (b) Refinancing of existing direct Farm Ownership debt required. Existing direct Farm Ownership debts will be refinanced when the borrower's indebtedness represents an asset of a State Rural Rehabilitation Corporation; a Defense Relocation Corporation. the accounts of which are not yet considered Government accounts; or a land-leasing or land-purchasing association or similar organization. The amount to be refinanced will include interest on the direct Farm Ownership debt to the date the subsequent direct loan is closed. The determination of the balance to be refinanced, the receipt for payment, note, mortgage, and satisfaction or release of the mortgage in connection with the debt being refinanced will be handled in accordance with Subpart A of Part 366 of this chapter.
- (c) Refinancing of existing direct Farm Ownership debt not required. Existing direct Farm Ownership debts, except the three types indicated in paragraph (b) of this section, will not be refinanced unless special authorization is obtained from the National Office. When the existing direct Farm Ownership debt is not refinanced:
- (1) The subsequent direct Farm Ownership loan will bear interest at 5 percent and the existing debt(s) will be continued at the rate(s) of interest shown in the note(s).

- (2) The mortgage(s) securing the existing direct Farm Ownership debt will not be released.
- (3) Each borrower whose initial direct Farm Ownership loan was approved prior to November 1, 1946, will execute Form FHA-165, "Variable-Payment Agreement," for his initial loan at the time he receives a subsequent direct Farm Ownership loan if he has not previously done The Form also will be executed by the County Supervisor. Execution of Form FHA-165 will change the repayment plan, eliminate the 90-day grace period, and establish December 31 as the installment due date. However, if a prior subsequent direct Farm Ownership loan has been made with a March 31 installment due date, the installment due date for the new subsequent direct Farm Ownership loan also will be March 31.
- (d) Reamortization of existing direct Farm Ownership debt. The existing direct Farm Ownership debt will be reamortized in accordance with Subpart A of Part 361 of this chapter, except an account need not be reamortized if it was on schedule (neither ahead nor behind schedule) as of the last preceding installment due date. When the existing direct Farm Ownership debt is to be reamortized, the borrower will execute Form FHA-176, "Request for Reamortization of Farm Ownership Loan."
- (e) Loan processing actions. The subsequent loan docket will be assembled and the loan will be processed in the same manner as prescribed in Part 332 of this chapter, except that:
- (1) Additional Forms FHA-643, "Farm Development Plan," FHA-42, "Valuation of Buildings," and FHA-596, "Appraisal Report," will be completed and included in the docket only when applicable.
- (2) The docket will include, when applicable, Forms FHA-165 and FHA-176. If the subsequent loan is made in connection with a transfer, Form FHA-97, "Assumption Agreement," will be included
- (3) The installment due date of the subsequent direct Farm Ownership loan will be January 1 except in those cases in which a borrower previously executed an initial or a subsequent direct Farm Ownership note or an assumption agreement which provided for a March 31 installment due date. If the borrower previously executed an initial or a subsequent direct Farm Ownership note or an assumption agreement with a March 31 installment due date, the installment due date of the subsequent direct Farm Ownership loan will be March 31; in such case, the note taken in connection with the subsequent direct Farm Ownership loan will be amended to provide for a March 31 installment due date.
- (Secs. 1, 2, 3, 44, 48, 50 Stat. 522, as amended, 523, as amended, 530, as amended, 531, as amended, sec. 17, 70 Stat. 802, as amended; 7 U.S.C. 1001, 1002, 1003, 1018, 1022, 1006d)

§ 333.4 Subsequent insured loan to a person indebted for a direct or insured Farm Ownership loan.

(a) General. When a subsequent insured loan is made, the existing direct or insured Farm Ownership loan will be refinanced and the entire amount of the

- subsequent insured Farm Ownership note will bear 5 percent interest. Generally, a subsequent insured loan may be made from the insurance fund only when funds are not available from a private lender or under a 2(f) agreement.
- (1) Before refinancing a Farm Ownership loan held by a local or state lender, the lender should be contacted to determine whether he is willing to make the subsequent loan. If a holder is not interested in making the subsequent loan, the loan may be made by another lender, including the United States as Trustee under a 2(f) agreement or the insurance fund.
- (2) Loan limitations will apply as in the case of an initial insured Farm Ownership loan.
- (3) If a new appraisal report is made, the borrower will be required to pay a \$20 appraisal fee.
- (4) When a subsequent insured loan is made, the existing note(s) will be cancelled and the existing Farm Ownership mortgage(s) will be satisfied except that in any state where local law requires the lien of the initial mortgage to the kept alive in order to obtain adequate security for the subsequent loan, the initial note and mortgage will not be cancelled and satisfied, and the State Director may approve the taking of a subsequent insured Farm Ownership note and mortgage which will renew, extend, if legally proper, and consolidate the unpaid balance of principal and interest on the initial loan with the additional advance, provided the Government will hold both the initial and subsequent mortgages.
- (5) The fixed 5-year period for non-redemption by the Government from the holder of a subsequent insured Farm Ownership loan will begin from the date of execution of the insurance endorsement.
- (b) Loan processing actions. The subsequent loan docket will be assembled and the loan will be processed in the same manner as prescribed for an initial insured loan except that:
- (1) Additional Forms FHA-643, FHA-42, and FHA-596 will be completed and included in the docket only when applicable.
- (2) After approval of the loan by the loan approval official, the following additional items will be submitted by the County Supervisor to the Attorney in Charge for preparation of closing instructions:
- (i) Preliminary title evidence based on a continuation search commencing from the date of recordation of the latest mortgage for the existing Farm Ownership loan.
- (ii) Final opinion and any title insurance policy issued in connection with the existing Farm Ownership loan.
- (iii) The mortgage for the existing Farm Ownership loan. This may be the original or a conformed copy certified by the County Supervisor or the recorder and showing the recording information.
- (iv) Any additional title information required by the Attorney in Charge.
- (3) The Attorney in Charge will include in his closing instructions advice with respect to the satisfaction or release of the mortgage for the initial Farm

Ownership loan. In case such mortgage is held by a private lender, the closing instructions will recognize that the satisfaction or release will not be received from the holder until some time after closing of the subsequent insured Farm Ownership loan and the closing instructions will require that the satisfaction or release be recorded as soon as it is received. In case the mortgage for the initial insured Farm Ownership loan is held by a private lender, the closing instructions also will require that Form FHA-366, "Consent and Release of Interest of United States (Insured Farm Ownership Loans)," be recorded along with the satisfaction or release.

- (4) The amount of the new note will be the sum of the following items less any amount paid by the borrower or transferee from personal funds:
- (i) Unpaid principal of note being refinanced.
- (ii) Total unpaid interest on note being refinanced computed to date of loan closing.
- (iii) Any amount owed the loan insurance account for advances or annual loan insurance charges.
- (iv) Amount of additional funds needed.
- (5) When a new lender is making the subsequent loan and the loan is ready for closing, the County Supervisor will request a check for the total amount of funds needed for refinancing the existing Farm Ownership loan and providing additional funds. This amount will correspond with the amount to be shown in the new note, Form FHA-251, when the loan is closed.
- (i) When the account is paid in full, the account will be closed. If the initial insured loan is held by a private holder, the original and one copy of Form FHA-993A, "Notice and Acknowledgment of Final Payment," will be forwarded to the holder. In a case where the holder holds the deed of trust and under State law the satisfaction or release is not to be furnished by the holder, the language of Form FHA-993A, Section II B, will be modified accordingly.
- (6) If the holder is making the subsequent loan, the amount of the loan check requested will be determined by subtracting the unpaid principal and interest owed the holder, calculated to the date of loan closing, from the total amount of the subsequent loan. (For insured loans evidenced by Form FHA-251, the interest owed the holder does not include the portion of interest representing the annual charge due the Government.)
- (i) When the subsequent loan is to be made by a private holder, the loan will be closed before the County Supervisor requests a loan check for the additional advance.
- (a) The State Director will deliver to the holder the original and two copies of the partially completed Form FHA-993, "Notice of Receipt of Final Payment on Insured Loan," the original of the subsequent insured Farm Ownership note, and the original attested Form FHA-971, "Request for Check," with a letter explaining the transaction. The State Director will inform the holder of

the amount of the unpaid balance of principal and interest due him as of the date of loan closing on the old note being refinanced. The State Director will request that, if such amount is in agreement with the holder's records, the holder should execute the original and one copy of Form FHA-993, and send to the appropriate County Supervisor the executed original and copy of Form FHA-993, together with the cancelled note for the initial insured Farm Ownership loan. If the mortgage for the initial insured Farm Ownership loan is held by the holder, the State Director also will request the holder to send to the County Supervisor the mortgage and an appropriate instrument of satisfaction or release of the mortgage. The State Director also will request the holder to send a check to the County Supervisor drawn to the order of the borrower in the amount specified on Form FHA-971.

- (b) When the executed original and copy of Form FHA-993 and the cancelled note are received from the holder, the County Supervisor will send the executed original and copy of Form FHA-993 to the Finance Office.
- (c) Upon receipt of the executed original and copy of Form FHA-993, the Finance Office will determine if the full amount owed the loan insurance account and, if the note is on Form FHA-251, the annual charge for the initial insured Farm Ownership loan have been paid, and, if paid, the Director, Finance Office, will sign Section II of the original and copy of Form FHA-993. Finance Office records on the initial insured Farm Ownership loan will be satisfied as a paid-in-full account.
- (ii) When the holder of the initial loan is the insurance fund or a State Rural Rehabilitation Corporation under a 2(f) agreement, the check for the subsequent loan and the note for the initial loan will be obtained before the loan is closed.
- (7) The County Supervisor on the date of loan closing will collect from the borrower a \$20 appraisal fee if a new apparisal was made, any amount owed the loan insurance account, the annual charge if the note being refinanced is on Form FHA-251, and if a new lender is making the subsequent loan the unpaid balance of principal on the initial Farm Ownership note and the amount of unpaid interest due the holder. However. if a private holder is making the subsequent loan and the loan check includes the appraisal fee and any amount owed the loan insurance account or the annual charge, the amounts for these items will be collected as soon as the loan check is received. If a new lender is making the subsequent loan and the holder of the initial loan is a private lender, the collection will include 10 days' additional interest.
- (8) The County Supervisor is authorized to satisfy the existing mortgage(s) in accordance with the closing instructions of the Attorney in Charge when the loan(s) being refinanced is a direct Farm ownership loan, an insured Farm Ownership loan for which the Government is named as mortgagee in the mortgage, or

an insured Farm Ownership loan for which the mortgage is held by the Government under a trust assignment or declaration of trust. Whenever the Government holds the mortgage under a trust assignment or declaration of trust, the satisfaction will show that the Government is satisfying the mortgage for itself and as trustee.

(9) The County Supervisor is authorized to execute Form FHA-366 for an initial insured Farm Ownership loan for which the lender holds the mortgage.

- (10) The cost of recording the satisfaction or release and Form FHA-366 will be borne by the borrower, except when State law requires the mortgagee to record or file satisfactions or releases and to pay the cost of recording. When the mortgagee is required to pay the recording cost:
- (i) The cost of recording the satisfaction or release will be paid by the mortgagee. The Government is the mortgagee for all mortgages taken on Form FHA-242..., "Real Estate Mortgage," or Form FHA-177..., "Real Estate Mortgage (Insured Loan)," and will be considered as the mortgagee for any mortgage taken on Form FHA-363..., "Real Estate Mortgage," which is subject to a trust assignment or declaration of trust.
- (ii) The cost of recording Form FHA-366 will be paid by the Government.
- (iii) Any recording costs required to be paid by the Government will be paid by voucher.
- (11) After the satisfaction or release of the mortgage for the initial insured Farm Ownership loan and, when appropriate, Form FHA-366 have been recorded, the County Supervisor will deliver to the borrower the cancelled note, the satisfied real estate mortgage, the instrument of satisfaction or release of the mortgage, and, when appropriate, Form FHA-366.

§ 333.5 Subsequent insured loan to an eligible applicant to refinance a direct or insured Farm Ownership loan in connection with a transfer.

When an applicant elegible for a Farm Ownership loan is acquiring by transfer a farm which is security for a Farm Ownership loan, he may be made a subsequent insured Farm Ownership loan to refinance the existing Farm Ownership indebtedness and provide additional funds for authorized purposes if needed. Even though the applicant (transferee) is not indebted for a Farm Ownership loan, the loan to refinance the Farm Ownership indebtedness is considered to be a subsequent Farm Ownership loan. The amount of the subsequent loan plus any prior lien indebtedness not being refinanced may not exceed 90 percent of the fair and reasonable value of the farm rather than the lesser of such value or the total cash investment. In all other respects, the policies and pro-cedures outlined in this part will be followed except: The county average value limitation is not applicable when no additional land is being purchased; an option from the old borrower will be included in the docket; and the deed from the old borrower to the new borrower

will be prepared or approved by the Farmers Home Administration.

Dated: June 1, 1960.

K. H. HANSEN. Administrator, Farmers Home Administration.

[F.R. Doc. 60-5175; Filed, June 7, 1960; 8:48 a.m.]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketina Service (Marketing Agreements and Orders), Department of Agriculture

SUBCHAPTER A-MARKETING ORDERS

PART 1015—CUCUMBERS GROWN IN FLORIDA

Order Terminating Limitation of **Shipments**

Findings. (a) Pursuant to Marketing Agreement No. 118 and Order No. 115 (7 CFR Part 1015), regulating the handling of cucumbers grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Florida Cucumber Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the termination of the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for not postponing the effective date of this termination order until 30 days or any other period beyond the date specifled (5 U.S.C. 1001 et seq.) in that: (i) the time intervening between the date when information upon which this termination order is based became available and the time when this termination order must become effective in order to effectuate the declared policy of the act is insufficient; (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by terminating regulations applicable to the handling of cucumbers, in the manner set forth below, on and after the effective date of this termination order; (iii) compliance with this termination order will not require any special preparation.on the part of handlers which cannot be completed by the effective dates: (iv) a reasonable time is permitted under the circumstances, for such preparation; (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area; and (vi) this order relieves restrictions on the handling of cucumbers grown in the production area during the period from the effective date specified until July 31, 1960.

Order terminated. The provisions of

§ 1015.303, as amended (24 F.R. 7863,

8089, 8542, 9708, 25 F.R. 2512, 3315, 3804) are hereby terminated as of June 6, 1960. (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 3, 1960.

FLOYD F. HEDLUND, Deputy Director, Fruit and . Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-5185; Filed, June 7, 1960; 8:49 a.m.]

[Cherry Order 4]

PART 1022-SWEET CHERRIES GROWN IN DESIGNATED COUN-TIES IN WASHINGTON

Limitation of Shipments

§ 1022.304 Cherry Order 4.

(a) Findings. (1) Pursuant to the marketing agreement and Order No. 122 (7 CFR Part 1022), regulating the handling of sweet cherries grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Washington Cherry Marketing Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of cherries, in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice. engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the Federal Register (5 U.S.C. 1001-1011) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than June 13, 1960. A reasonable determination as to the supply of, and the demand for, cherries must await the development of the crop and adequate information thereon was not available to the Washington Cherry Marketing Committee until May 19, 1960; recommendation as to the need for, and the extent of, regulation of shipments of such cherries was made at the meeting of said committee on May 19, 1960, after consideration of all available information relative to the supply and demand conditions for such cherries, at which time the recommendation and supporting information were submitted to the Department; necessary supplemental data for consideration in connection with the specifiaction of the provisions of this section were not available until May 25, 1960; shipments of the current crop of such cherries will begin on or about June 13, 1960, and this section should be applicable, insofar as practicable, to all shipments of such cherries in order to effectuate the declared policy of the act: and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time here-

(b) Order. (1) During the period beginning at 12:01 a.m., P.s.t., June 13, 1960, and ending at 12:01 a.m., P.s.t., September 1, 1960, no handler shall handle:

(i) Any lot of cherries unless such cherries grade at least U.S. No. 1, except the contents of individual packages in any lot are not restricted as to the percentage of defects: Provided, That the averages for the entire lot are within the tolerances specified for the grade;

(ii) Any lot of cherries, unless at least 95 percent, by count, of such cherries measure at least 4864 inch in diameter:

(iii) Any lot of cherries in faced packs unless at least 90 percent, by count, of such cherries measure at least 54/64 inch in diameter: or

(iv) Any lot of cherries in any pack other than faced packs in any container having a capacity greater than that of a container with inside dimensions of 15 1/8 by 10 1/2 by 4 inches, unless the net weight of the cherries in such container is not less than 20 pounds, and at least 90 percent, by count, of such cherries measure at least 54%4 inch in diameter.

(2) Notwithstanding any other provisions of this regulation, any individual shipment of cherries which, in the aggregate, does not exceed 100 pounds, net weight, may be handled without regard to the restrictions specified in this paragraph (b) or in § 1022.41 or § 1022.55.

(c) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said marketing agreement and order; "U.S. No. 1" and "diameter" shall have the same meaning as when used in the United States Standards for Sweet Cherries (§§ 51.2646-51.2657 of this title); and "faced pack" means that the cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 3, 1960.

FLOYD F. HEDLUND. Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-5173; Filed, June 7, 1960; 8:47 a.m.]

SUBCHAPTER B-PROHIBITIONS OF IMPORTED **COMMODITIES**

PART 1070—CUCUMBERS

Order Terminating Cucumber Import Regulation

Pursuant to the requirement contained in section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended, 7 U.S.C. 601-674), § 1070.3 Cucumber Regulation No. 3 (24 F.R. 8717, 9780, 25 F.R. 2515, 3315, 3812), is hereby terminated as of June 6, 1960.

It is hereby found that it is impracticable, unnessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this termination of regulation beyond that herein specified (5 U.S.C. 1001 et seq.) in that (a) the requirements established . by this termination order are issued pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, supra, which makes such termination mandatory; (b) termination of regulations imposed on domestic shipments of cucumbers under Marketing Agreement No. 118 and Order No. 115 (7 CFR 1015.303; 24 F.R. 7863, 8089, 8542, 9708, 25 F.R. 2512, 3315, 3804), will become effective June 6, 1960; (c) compliance with this cucumber import regulation should not require any special preparation by importers which cannot be completed by the effective date; and (d) this order terminates restrictions on the importation of cucumbers which would be imposed by § 1070.3 Cucumber Regulation No. 3 (24 F.R. 8717, 9780, 25 F.R. 2515, 3315, 3812), if it were not terminated.

(Secs. 1-19, 48 Stat. 31, as amended, 7 U.S.C. 601-674)

Dated: June 3, 1960, to become effective June 6, 1960.

FLOYD F. HEDLUND, Deputy Director. Fruit and Vegetable Division.

[F.R. Doc. 60-5186; Filed, June 7, 1960; 8:49 a.m.1

Title 14—AERONAUTICS AND **SPACE**

Chapter III—Federal Aviation Agency

SUBCHAPTER E-AIR NAVIGATION REGULATIONS

[Reg. Docket No. 411; Amdt. 61]

PART 610-MINIMUM EN ROUTE IFR ALTITUDES

Miscellaneous Alterations

The minimum en route IFR altitudes appearing hereinafter have been coordinated with interested members of the industry in the regions concerned insofar as practicable. The altitudes are adopted without delay in order to provide for safety in air commerce. Pursuant to authority delegated to me by the Administrator (24 F.R. 5662), I find that a situation exists requiring immediate action in the interest of safety, that notice and public procedure hereon are impracticable, and that good cause exists for making this amendment effective on less than thirty days notice. Part 610 is amended as follows:

Section 610.15 Green Federal airway 5 is amended to delete:

From Pine Bluff, Ark., LF/RBN; to Memphis, Tenn., LFR; MEA 1,500.

From Memphis, Tenn., LFR; to Jack's Creek, Tenn., LFR; MEA 2,000.

From Jack's Creek, Tenn., LFR; to Nashville, Tenn., LFR; MEA 3,000.

From Nashville, Tenn., LFR; to Smithville, Tenn., LF/RBN; MEA 3,500.

Section 610.210 Red Federal airway 10 is deleted.

Section 610.211 Red Federal airway 11 is amended to delete:

From Claremore INT, Okla., to Springfield, Mo., LFR; MEA 2,500. From Springfield, Mo., LFR; to Vichy, Mo.,

LF/RBN: MEA 2.600.

From Vichy, Mo., LF/RBN; to St. Peters INT, Mo., MEA 2,200.

Section 610.602 Blue Federal airway 2 is amended to read:

From Sitka, Alaska, LFR; to Sisters Island, Alaska, LF/RBN; MEA 6,500.

Section 610.606 Blue Federal airway 6 is deleted:

Section 610.613 Blue Civil airway 13 is amended to delete:

From Liberty INT, Mo.; to Des Moines, Iowa, LFR; MEA 2,300.

Section 610.640 Blue Federal airway 40 is amended to delete:

From Concord, N.H., LFR; to Lebanon, N.H., LFR; MEA 5,000.

Section 610.645 Blue Federal airway 45 is amended to delete:

From Keene, N.H., LF/RBN; to Lebanon, N.H., LF/RBN; MEA 5,000.

Section 610.6001 VOR Federal airway 1 is amended to read in part:

From Rochelle INT, N.Y.; to Wilton, Conn., VOR: MEA 2.500.

Section 610.6002 VOR Federal airway 2 is amended to read in part:

From Gardner, Mass., VOR; to Boston, Mass., VOR: MEA 3,000.

Section 610.6005 VOR Federal airway 5 is amended to read in part:.

From Macon, Ga., VOR; to *Loraine INT, Ga.; MEA 2,000. *3,500—MRA.

From Loraine INT, Ga.; to *Jenkinsburg INT, Ga.; MEA 2,000. *2,500—MRA.
From Roberta INT, Ga., via W alter; to Yatesville INT, Ga., via W alter; MEA 2,300. **3.000---MRA.

From Yatesville INT, Ga., via W alter.; to Atlanta, Ga., VORTAC via W alter,; MEA

Section 610.6007 VOR Federal airway 7 is amended to read in part:

From *Skipperville INT, Ala.; to **Banks Ala.; MEA 1,800. *3,000,—MRA. **2.000--MRA

From Marianna, Fla., VOR; to *Malone INT, Fla.; MEA 2,000. *3,000—MRA.

From Malone INT, Fla.; to Dothan, Ala., VOR; MEA 2,000.

Section 610.6008 VOR Federal airway 8 is amended to read in part:

From Goshen, Ind., *VOR; to *Garrett INT, Ind.; MEA **3,000. *3,500-MRA. **2,300-

From Garrett INT, Ind.; to Findlay, Ohio, VOR; MEA *3,500. *2,000-MOCA.

Section 610.6010 VOR Federal airway 10 is amended to read in part:

From Bradford, Ill., VOR; to Naperville, III., VOR; MEA 2,000.

Section 610.6012 VOR Federal airway 12 is amended to read in part:

From Santa Barbara, Calif., VOR; to *Fillmore, Calif., VOR; MEA 8,000. *6,500-MCA Fillmore VOR, westbound.

From Fillmore, Calif., VOR; to Saugus INT, Calif.; MEA 6,000.

From Saugus INT, Calif.; to *Palmdale, Calif. VOR; 8,000. *6,000—MCA Palmdale VOR, southwestbound.

Section 610.6013 VOR Federal airway 13 is amended to read in part:

From Lamoni, Iowa, VOR; to *Woodburn INT, Iowa; MEA 2,300. *4,300—MRA.

From Woodburn INT, Iowa; to Des Moines, Iowa, VOR; MEA 2,300.

From Mason City, Iowa, VORTAC via W alter.; to *Alma City INT, Iowa, via W alter.; MEA **4,300. *4,300—MRA. **2,600— MOCA.

From Alma City INT, Iowa, via W alter.; to New Prague INT, Minn., via W alter.; MEA **4,300. *3,500—MRA. **2,300—MOCA.

Section 610.6014 VOR Federal airway 14 is amended to read in part:

From *Coldwater INT, Ind.; to Rockford NT. Ohio: MEA **3,000. *3,000—MRA. INT. Ohio; MEA **3,000. *2,200-MOCA.

From Rockford INT, Ohio; to Findlay, Ohio, VOR: MEA 2.500.

Section 610.6016 VOR Federal airway 16 is amended to read in part:

From *Piedmont INT, Tenn.; to **White Pine INT, Tenn.; MEA 4,000. *8,000—MRA.

**5.000-MRA. From Knoxville, Tenn., VOR via N alter.: *Witt INT, Tenn., via N alter.; MEA ,000. *5,000—MRA. **6,600—MOCA. **7,000.

From Witt INT, Tenn., via N alter.; *Hilton INT, Va., via N alter.; MEA **7,000. *9,500—MRA. **6,600—MOCA. *9.500-MRA.

Section 610.6017 VOR Federal airway 17 is amended to read in part:

From Cotulla, Tex., VOR; to *Millet INT, Tex.; MEA **2,500. *3,500—MRA. **1,600— MOCA.

From Millet INT, Tex.; to *Leming INT, Tex.; MEA **2,500. *2,500—MRA. **1,600— MOCA.

From Leming INT, Tex.; to San Antonio, Tex., VOR; MEA 2,200.

Section 610.6018 VOR Federal airway 18 is amended to delete:

From Anniston, Ala., VOR; to Heflin INT. Ala.; MEA 4,000.

From Heflin INT, Ala.; to Chattahoochee INT, Ga.; MEA 2,700.

From Anniston, Ala., VOR via S alter.; to Roopville INT, Ga., via S alter.; MEA 4,000. From Roopville INT, Ga., via S alter.; to

Atlanta, Ga., VOR via S alter.; MEA 2,300. From Atlanta, Ga., VOR via S. alter.; to McDonough, Ga., VORTAC via S alter.; MEA 2.200.

From McDonough, Ga., VORTAC via S. alter.; to *Eatonton INT, Ga., via S. alter.; MEA **3,000. *3,000—MRA. **1,900—MO-CA.

From Eatonton INT. Ga., via S alter; to Thomas INT, Ga., via S alter; MEA *3,000. *1,900-MOCA.

From Thomas INT, Ga., via S alter.; to Augusta, Ga., VOR via S alter.; MEA 1,800. From Chattahoochee INT, Ga.; to Atlanta, Ga., ILS loc.; MEA 2,200.

From Atlanta, Ga., ILS loc.; to Oxford INT, Ga.; MEA 2,200.

From Oxford INT, Ga.; to *Madison INT., Ga.; MEA **3,500. *3,500-MRA. **2,100-MOCA.

From Madison INT, Ga.; to Raytown INT, Ga.; MEA *3,800. *1,800-MOCA.

From Raytown INT, Ga.; to *Appling INT, Ga.; MEA 1,800. *2,500—MRA.
From Appling INT, Ga.; to Augusta, Ga.,

VOR; MEA 1,800.

Section 610,6018 VOR Federal airway 18 is amended by adding:

From Anniston, Ala., VOR; to Roopville INT. Ga.; MEA 4,000.

From Roopville INT, Ga.; to Atlanta, Ga., VORTAC; MEA 2,300.

From Atlanta, Ga., VORTAC; to McDonough, Ga., VOR; MEA 2,200.

From McDonough, Ga., VOR; to *Eatonton INT, Ga.; MEA **2,300, *2,300—MRA. **1,900—MOCA.

From Eatonton INT, Ga.; to Thomson INT, Ca.; MEA *2,300. *1,900—MOCA.
From Thomson INT, Ga., to Augusta, Ga.,

VOR; MEA 1,800.

From Anniston, Ala., VOR via N alter.; to Hefin INT, Ala., via N alter.; MEA 4,000.
From Heflin INT., Ala., via N alter.; to Chattahoochee INT, Ga., via N alter; MEA

From Chattahoochee INT, Ga., via N alter.; to Conyers INT, Ga., via N alter.; MEA 2,200. From Conyers INT, Ga., via N alter; to *Madison INT, Ga., via N alter; to Addison INT, Ga., via N alter; MEA **3,500.
*3,500—MRA. **2,100—MOCA.

From Madison INT, Ga., via N. alter.; to Daytown INT, Ga., via N alter.; MEA *3,800. *1.800-MOCA.

From Raytown INT, Ga., via N alter.; to Appling INT, Ga., via N alter.; MEA 1,800. *2,500-MRA.

From Appling INT, Ga., via N alter.; to Augusta, Ga., VOR via N alter; MEA 1,800.

Section 610.6021 VOR Federal airway 21 is amended to read in part:

From *Soda INT, Calif.; to **Craters INT, Calif.; MEA ***19,000. *16,000—MCA Soda INT, northeastbound. **18,000 — MCA INT. Craters INT, southwestbound. ***10,000-

Section 610.6023 VOR Federal airway 23 is amended to read in part:

From Sacramento, Calif., VOR; to *Capital INT, Calif.; MEA 2,000. *3,700—MRA. From Capital INT, Calif.; to *Grimes INT,

Calif.; MEA 2,000. *4,000-MCA Grimes INT, northbound.

Section 610,6025 VOR Federal airway 25 is amended to read in part:

From Klamath Falls, Oreg., VORTAC; to Redmond, Oreg., VOR; MEA *12,000. *10,-COO-MOCA

From Redmond, Oreg., VOR.; to The Dalles, Oreg., VOR; MEA 7,000.

Section 610.6026 VOR Federal airway 26 is amended to read in part:

From Eau Claire, Wis., VOR: to *Cadott INT, Wis.; MEA 2,400. *3,500-MRA.

Section 610.6027 VOR Federal airway 27 is amended to read in part:

From Paso Robles, Calif., VOR via W alter.; to *Salinas, Calif., VOR via W alter.; MEA 7.000. *4,000—MCA Salinas VOR, south-bound (deletes MCA Paso Robles VOR).

Section 610.6032 VOR Federal airway 32 is amended to read in part:

From *Elko, Nev., VOR; to Bonneville, Utah, VOR; MEA 13,000. *11,500-MCA Elko VOR, eastbound.

Section 610.6035 VOR Federal airway 35 is amended to read in part:

From Macon, Ga., VOR; to *Clinton INT, Ga.; MEA 2,000. *2,500—MRA.
From Clinton INT, Ga.; to *Eatonton INT,

Ca.; MEA 2,000. *3,000-MRA.

Section 610.6037 VOR Federal airway 37 is amended to read in part:

From Allendale, S.C., VOR; to *North INT, S.C.; MEA 1,700. *2,000—MRA.

From North INT, S.C.; to Columbia, S.C., VOR; MEA 1,700.

Section 610.6051 VOR Federal airway 51 is amended to read in part:

From Macon, Ga., VOR; to *Loraine INT,

From Loraine INT, Ga.; to *Jenkinsburg INT, Ga.; MEA 2,000. *2,500—MRA.
From Loraine INT, Ga.; to *Jenkinsburg INT, Ga.; MEA 2,000. *2,500—MRA.
From Roberta INT, Ga., via W alter; to

*Yatesville INT, Ga., via W alter.; MEA 2,300. *3,000-MRA.

From Yatesville INT, Ga., via W alter.; to Atlanta, Ga., VORTAC, via W alter.; MEA

Section 610.6053 VOR Federal airway 53 is amended to read in part:

From St. George INT, S.C.; to Columbia, S.C., VOR; MEA 1,700.

Section 610.6054 VOR Federal airway 54 is amended by adding:

From Fort Mill, N.C., VOR; to Pinehurst, N.C., VOR; MEA *2,500. *1,800—MOCA.

Section 610.6055 VOR Federal airway 55 is amended to read in part:

From Dawn INT, Ohio; to *Coldwater INT, Ohio; MEA **2,600. *3,000—MRA. **2,200—

Section 610.6056 VOR Federal airway 56 is amended to read in part:

From *Junction City INT, Ga.; to **Reynolds INT, Ga.; MEA 1,700. *3,000—MRA. **2,500—MRA.

From Reynolds INT, Ga.; to Macon, Ga., VOR; MEA 1,700.

From *North INT, S.C., via S alter; to Columbia, S.C., VOR via S alter.; MEA 1.700. *2.000-MRA.

Section 610.6068 VOR Federal airway 68 is amended to read in part:

From *Floresville INT, Tex.; to **Essen INT, Tex.; MEA ***2,500. *3,000—MRA. **4,000—MRA. ***2,000—MOCA.

From Essen INT, Tex.; to Burnell INT, Tex.; MEA *4,000. *1,600—MOCA. From Burnell INT, Tex.; to Corpus Christi,

Tex., VOR: MEA 1.400.

Section 610.6070 VOR Federal airway 70 is amended to read in part:

From *Banks INT, Ala.; to Eufaula, Ala., VOR; MEA **2,000. *2,000-MRA. **1,800-MOCA.

Section 610.6072 VOR Federal airway 72 is amended to read in part:

From Fayetteville, Ark., VOR; to Dogwood, to., VOR; MEA *3,000. *2,600—MOCA. Mo., VOR; MEA *3,000.

From Dogwood, Mo., VOR; to Maples, Mo., VOR; MEA *3,000. *2,700-MOCA.

Section 610.6072 VOR Federal airway 72 is amended by adding:

From Albany, N.Y., VOR; to Keene, N.H., VOR; MEA 5,600.

From Keene, N.H., VOR; to Manchester, N.H., VOR; MEA 4,300.

From Manchester, N.H., VOR; to Ipswich INT, Mass.; MEA 1,800.

Section 610.6074 VOR Federal airway 74 is amended to read in part:

From Little Rock, Ark., VOR; to Pine Bluff, Ark., VOR; MEA 1,800.

Section 610.6077 VOR Federal airway 77 is amended to read in part:

From Lamoni, Iowa, VOR; to *Woodburn INT, Iowa; MEA 2,300. *4,300-MRA. From Woodburn INT, Iowa; to Des Moines, Iowa, VOR; MEA 2,300.

Section 610.6078 VOR Federal airway 78 is amended to read in part:

From Darwin, Minn., VOR; to Minneapolis, Minn., VOR; MEA 2,400.

Section 610.6084 VOR Federal airway 84 is amended by adding:

From Bradford, Ill., VOR; to Hinckley INT, Ill.; MEA 2,000.

Section 610.6088 VOR Federal airway 88 is amended to read in part:

From *Waco INT, Mo.; to Avilla INT, Mo.; MEA **2,900. *6,500—MRA. **2,600— MOCA (deletes MEA Joplin LOM to Avilla

Section 610.6095 VOR Federal airway 95 is amended to read in part:

From Phoenix, Ariz., VOR; to Knob INT, Ariz., northbound, MEA 8,000; southbound, MEA 6.000.

Section 610.6100 VOR Federal airway 100 is amended to read in part:

From Sioux City, Iowa, VOR; to Ft. Dodge, Iowa, VOR; MEA 3,000.

Section 610.6105 VOR Federal airway 105 is amended to read in part:

From Phoenix, Ariz., VOR; to *Cactus INT. Ariz.; northbound, MEA 7,000; southbound, MEA 5,000. *7,000—MRA.

From Phoenix, Ariz., VOR via E alter.; to Knob INT, Ariz., via E alter.; northbound, MEA 8,000; southbound, MEA 6,000.

Section 610.6107 VOR Federal airway 107 is amended to read in part:

From Mission INT, Calif.; to Oakland, Calif., VORTAC; southeastbound, MEA 7,000; northwestbound, MEA 3,500.

Section 610.6113 VOR Federal airway 113 is amended to read in part:

From Paso Robles, Calif., VOR; to Priest,

Calif., VOR; MEA 6,000.
From Priest, Calif., VOR; to *Los Banos, Calif., VOR; MEA 7,000. *5,500-MCA Los Banos VOR, southbound.

Section 610.6114 VOR Federal airway 114 is amended to read in part:

From Gregg County, Tex., VOR, via N alter.; to Marshall INT, Tex., via N alter.; MEA 2.400.

From Marshall INT, Tex., via N alter.; to Shreveport, La., VOR via N alter.; MEA 2,600.

Section 610.6132 VOR Federal airway 132 is amended to read in part:

From *Waco INT, Mo., via S alter.; to Avilla INT, Mo., via S alter.; MEA **2,900. *6,500—MRA. **2,600—MOCA (deletes MEA Joplin LOM to Avilla INT).

Section 610.6133 VOR Federal airway 133 is amended to read in part:

From Salem, Mich., VOR; to *Russell INT, 'Mich.; MEA 2,600. *4,000—MRA.
From Russell INT, Mich.; to Flint, Mich.,

VOR; MEA 2,200.

Section 610.6134 VOR Federal airway 134 is amended to read:

From Evergreen, Ala., VOR; to Rutledge INT, Ala.; MEA *1,800. *1,500---MOCA. From Rutledge INT, Ala.; to *Banks INT,

Ala.; MEA **2,700. *2,000—MRA. **1,800— MOCA.

From Banks INT, Ala.; to Columbus, Ga., VOR; MEA 2,000.

Section 610.6141 VOR Federal airway 141 is amended to read in part:

From Ipswich INT, Mass.; to Manchester, N.H., VOR: MEA 1,800.

Section 610.6154 VOR Federal airway 154 is amended to read in part:

From *Junction City INT, Ga.; to **Reynolds INT, Ga.; MEA 1,700. *3,000-MRA. * *2.500-MRA.

From Reynolds INT, Ga.; to Macon, Ga., VOR: MEA 1.700.

Section 610.6156 VOR Federal airway 156 is amended to read in part:

From Elkins, W. Va., VOR; to Grottoes INT, Va.; MEA *8,000. *6,900-MOCA.

Section 610.6159 VOR Civil airway 159 is amended to read in part:

From Phoenix, Ariz., VOR; to Four Peaks Orlando, Fla., VOR via E alter.; MEA **1,500. INT, Ariz.; MEA 6,000.
*3,200—MRA. **1,300—MOCA.

Section 610.6161 VOR Federal airway 161 is amended to read in part:

From Tulsa, Okla., VOR; to Nowata INT, Okla.; MEA 2,100.

From Nowata INT, Okla.; to Oswego, Kans.,

VOR; MEA *2,500. *2,000---MOCA. From Oswego, Kans., VOR; to *Walnut INT, Kans.; MEA 2,300. *3,800—MRA.

From Walnut INT, Kans.; to *Fulton INT, ans.; MEA **3,800. *6,000—MRA. **3,800.

Kans.; MEA **2,300—MOCA.

From Fulton INT, Kans.; to Butler, Mo., VOR: MEA 2,300.

From Lamoni, Iowa, VOR; to *Woodburn INT, Iowa; MEA 2,300. *4,300—MRA. From Woodburn INT, Iowa; to Des Moines,

Iowa, VOR; MEA 2,300.

Section 610.6163 VOR Federal airway 163 is amended to read in part:

From Tilden INT, Tex., via W alter.; to *Leming INT, Tex., via W alter.; MEA 2,200. *2,500-MRA

From Leming INT, Tex., via W alter.; to San Antonio, Tex., VOR via W alter.; MEA 2.200.

Section 610.6171 VOR Federal airway 171 is amended to delete:

From Scotland, Ind., VOR; to Terre Haute, Ind., VOR; MEA 2.000.

From Terre Haute, Ind., VOR; to State Line INT, Ind.; MEA 2,000.

From State Line INT, Ind.; to Peotone, Ill., VOR; MEA *2,500. *2,000-MOCA.

From Nodine, Minn., VOR; to Elba INT, Minn.: MEA 2,800 From Elba INT, Minn.; to Zumbrota INT,

Minn.; MEA 2,500. From Zumbrota INT, Minn.; to Farming-

ton, Minn., VOR; MEA 2,200.

From Farmington, Minn., VOR; to Excelsior INT, Minn.; MEA 2,200. From Excelsior INT, Minn.; to Mayer INT.

Minn.; MEA 2,500.

From Mayer INT, Minn.; to *Cokato INT, Iinn.; MEA **3,300. *4,600—MRA. Minn.; MEA **2.500---MOCA.

From *Cokato INT, Minn., to Roscoe INT, Minn.; MEA **4,600. *4,600—MCA Cokato INT, northwestbound. **2,500—MOCA.

From Roscoe INT, Minn.; to Alexandria, Minn., VOR; MEA 2,600.

Section 610.6171 VOR Federal airway 171 is amended by adding:

From Scotland, Ind., VOR; to Lewis, Ind., VOR; MEA 2,000.

From Lewis, Ind., VOR; to Danville, Ill., VOR: MEA 2,000.

From Lewis, Ind., VOR via W alter.; to Danville, Ill., VOR via W alter.; MEA 2,000.

From Danville, Ill., VOR; to Peotone, Ill., VOR; MEA 1,900.

From Nodine, Minn., VOR; to Farmington, Minn., VOR; MEA 2,200.

From Farmington, Minn., VOR; to Victoria INT, Minn.; MEA 2,200.

From Victoria INT, Minn.; to Darwin, Minn., VOR; MEA 2,300.

From Darwin, Minn., VOR; to Eden Valley INT, Minn.; MEA 2,300.

From Eden Valley INT, Minn.; to Alexandria, Minn., VOR; MEA 2,900.

Section 610.6185 VOR Federal airway 185 is amended to read in part:

From *Ottway INT, Tenn., via E alter.; to *White Pine INT, Tenn. via E alter.; MEA 4,000. *7,200-MRA. **5,000-MRA.

Section 610.6190 VOR Federal airway 190 is amended to read in part:

vine INT, Ariz.; northeastbound, MEA 10,000; southwestbound, MEA 6,000. *9,000-MCA Four Peaks INT, northeastbound,

From Ponca City, Okla., VOR; to Bartlesville, Okla., VOR; 2,200. From Bartlesville, Okla., VOR; to Oswego,

Kans., VOR; MEA 2,100.
From Oswego, Kans., VOR; to *Waco INT,

Mo.; MEA 2,500. *6,500—MRA. From Waco INT, Mo.; to Avilla INT, Mo.; MEA *2,900. *2,600—MOCA.

From Avilla INT, Mo.; to Springfield, Mo., VOR; MEA 2,600 (deletes MEA Joplin LOM to Avilla INT).

Section 610.6191 VOR Federal airway 191 is amended by adding:

From Milwaukee, Wis., VOR; to Oshkosh, Wis., VOR: MEA 2.600.

From Oshkosh, Wis., VOR; to Stevens Point, Wis., VOR; MEA 2,200.

From Stevens Point, Wis., VOR; to Wausau,

Wis., VOR; MEA 2,500.
From Wausau, Wis., VOR; to Rhinelander, Wis., VOR; MEA 3,000.

Section 610.6194 VOR Federal airway 194 is amended to read in part:

From Union INT, S.C.; to Fort Mill, N.C., VOR; MEA 2,000.

From Fort Mill, N.C., VOR; to Norwood INT, N.C.; MEA *2,500. *1,800—MOCA.

Section 610.6194 VOR Federal airway 194 is amended by adding:

From Fort Mill, N.C., VOR via N alter.; to Liberty, N.C., VOR via N alter.; MEA 2,400. From Liberty, N.C., VOR via N alter.; to

Raleigh, N.C., VOR via N alter.; MEA 2,000. From Cofield, N.C., VOR via S alter.; to Norfolk, Va., VOR via S alter.; MEA 1,400.

Section 610.6199 VOR Federal airway 199 is amended to read in part:

From Ukiah, Calif., VOR; to *Red Bluff, Calif., VORTAC; MEA 9,000. *5,000—MCA Red Bluff VORTAC, southwestbound.

Section 610.6200 VOR Federal airway 200 is amended to read in part:

From Yuba INT, Calif.; to *Valley INT, Calif.; MEA 4,000. *8,500—MCA Valley INT, eastbound.

From Valley INT, Calif.; to Reno, Nev., VOR; MEA 11,000.

Section 610.6208 VOR Federal airway 208 is amended to read in part:

From *Mesa Grande INT, Calif.; to **Thermal, Calif., VOR; MEA ***11,000. *9,000—MCA Mesa Grande INT, northeastbound. **9,000—MCA Thermal VOR, southwestbound. **6,000—MCA Thermal VOR, northeastbound. ***10,000—MCA.

Section 610.6214 VOR Federal airway 214 is amended to read in part:

From Zanesville, Ohio, VOR; to Bellaire,

Ohio, VOR; MEA 2,400.
From Bellaire, Ohio, VOR; to Pittsburgh, Pa., VOR; MEA 2,600.

Section 610.6217 VOR Federal airway 217 is amended by adding:

From Green Bay, Wis., VOR; to Whinelander, Wis., VOR; MEA 2,900.

Section 610.6221 VOR Federal airway · 221 is amended to read in part:

From Fort Wayne, Ind., VORTAC; to *Garrett INT, Ind.; MEA 2,700. *3,500-MRA.

Section 610.6222 VOR Federal airway 222 is amended to read in part:

From Norcross, Ga., VOR; to Silver City INT, Ga.; MEA 3,000.
From Silver City INT, Ga.; to Toccoa, Ga.,

VOR; MEA 3,500.

Section 610.6241 VOR Federal airway 241 is amended to delete:

From Columbus, Ga., VOR via W alter.; to Raymond INT, Ga., via W alter.; MEA 2,200. From Raymond INT, Ga., via W alter.; to Atlanta, Ga., VORTAC.via W alter.; MEA 2.100.

Section 610.6241 VOR Federal airway 241 is amended to read in part:

From *Abbeville INT, Ala.; to **Bakerhill INT, Ala.; MEA 1,600. **1,700—MRA. *1,700-MRA.

From Bakerhill INT, Ala.; to Eufaula, Ala., VOR; MEA 1,600.

From Columbus, Ga., VOR; to *Big Spring NT, Ga.; MEA 2,200. *2,800—MRA. INT, Ga.; MEA 2,200.

From Big Spring INT, Ga.; to Raymond INT, Ga.; MEA 2,200.

From Raymond INT, Ga.; to Atlanta, Ga., VOR; MEA 2,100.

Section 610.6244 VOR Federal airway 244 is amended to read in part:

From Oakland, Calif., VORTAC via E alter .: to Sunol INT, Calif., via E alter.; MEA 4,000.
From *Delano INT, Utah; to **Hanksville,
Utah, VOR; MEA ***#16,000. *16,000—MCA
Delano INT, eastbound. **11,000—MCA Delano INT, eastbound. **11,000—MCA Hanksville VOR, westbound. ***15,000— MOCA. #Continuous navigation signal coverage does not exist over the entire route segment below 18,000 feet.

Section 610.6247 VOR Federal airway 247 is amended to read:

From Douglas, Wyo., VOR; to Crazy Woman, Wyo., VOR; MEA 7,500.

Section 610.6248 VOR Federal airway 248 is amended to read in part:

From Avenal, Calif., VOR: to *Shafter INT. Calif.; southeastbound, MEA 2,000; north-westbound, MEA, 4,000. *4,000—MRA.

From Shafter INT, Calif.; to Bakersfield, Calif., southeastbound, MEA 2,000; northwestbound, MEA 4,000.

Section 610.6257 VOR Federal airway 257 is amended to read in part:

From *Anita INT, Ariz.; to Bryce Canyon, Utah, VOR; MEA **15,500. *11,000-MRA. **11,500-MOCA.

From Phoenix, Ariz., VOR; to *Cactus INT, Ariz.; northbound, MEA 7,000; southbound, MEA 5,000. *7,000-MRA.

Section 610.6281 VOR Federal airway 281 is amended to read in part:

From Redmond, Oreg., VOR; to *Heppner INT, Oreg.; MEA **10,500. *10,000-MRA. **8.000--MOCA.

Section 610.6283 VOR Federal airway 283 is amended to read in part:

From Lakeview, Oreg., VOR; to Redmond,

Oreg., VOR; MEA 10,000.
From *Redmond, Oreg., VOR; to Elkhorn
INT, Oreg.; MEA 12,500. *10,000—MCA Redmond VOR, northwestbound.

From Elkhorn INT, Oreg., to *Maverick INT, Oreg.; northwestbound, MEA 7,000; southeastbound, MEA 12,500. *9,500—MCA Mayerick INT, southeastbound.

From Maverick INT, Oreg.; to Newberg, Oreg., VOR; MEA 4,000.

Section 610.6295 VOR Federal airway 295 is amended to read in part:

From Vero Beach, Fla., VOR via E alter. to *Malabar INT, Fla., via E alter.; MEA **1,500. *3,000—MRA. **1,300—MOCA.

From Malabar INT, Fla., via E alter; to Hopkins INT, Fia.; via E alter.; MEA *1,500. *1,300---MOCA

From Hopkins INT, Fla., via E alter.; to *Sawgrass INT, Fla., via E alter.; MEA **2,000. *1,800—MRA. **1,300—MOCA.

From Sawgrass INT, Fla., via E alter.; to Orlando, Fla., VOR, via E alter.; MEA *2,000. *1,300—MOCA.

Section 610.6298 VOR Federal airway 298 is amended to read in part:

From *Lamont INT, Idaho; to Dunoir, Wyo., VOR; MEA 15,000. *13,000—MCA Lamont INT, eastbound.

From Dunoir, Wyo., VOR: to *Boysen Reservoir, Wyo., VOR; MEA 14,000. *11,000—MCA Boysen Reservoir VOR, westbound.

Section 610.6422 VOR Federal airway 422 is amended to read in part:

From Wolflake, Ind., VOR: to *Garrett INT, Ind.; MEA 2,200. 3,500-MRA. From Garrett INT, Ind.; to Defiance, Ohio,

VOR: MEA 2,009. Section 610.6427 VOR Federal airway

427 is amended by adding: From Navarre, Ohio, VOR; to Kent INT,

Ohio; MEA 2,500.

Section 610.6443 VOR Federal airway 443 is amended to delete:

From Glen Daie INT, W. Va.; to Newcomerstown, Ohio, VOR; MEA 2,600.

Section 610.6443 VOR Federal airway 443 is amended by adding:

From Bellaire, Ohio, VOR; to Newcomerstown, Ohio, VOR; MEA 2,600.

Section 610.6454 VOR Federal airway 454 is amended to read in part:

From Tuskegee, Ala., VOR; to *Big Spring NT, Ga.; MEA **2,800. *2,800---MRA. *2,800—MRA. INT, Ga.; MEA **2,300-MOCA.

Section 610,6454 VOR Federal airway 454 is amended by adding:

From Ft. Mill, N.C., VOR; to Liberty, N.C., VOR; MEA 2,400.

From Liberty, N.C., VOR; to Lawrenceville, Va., VOR; MEA 2,500.

Secton 610.6456 VOR Federal airway 456 is added to read:

From Redoubt Bay INT, Alaksa; to Anchorage, Alaska, VOR; MEA 2,500.

Section 610.6457 VOR Federal airway 457 is added to read:

From Norwich, Conn., VORTAC; to Providence, R.I., VOR; MEA 1,600.

From Providence, R.I., VOR; to Walpole INT, Mass.; MEA 2,000.

From Walpole INT, Mass.; to Boston, Mass., VOR; MEA 1,800.

Section 610.6600 VOR Federal airway 1500 is amended to read in part:

From Eau Claire, Wis., VOR; to *Cadott INT, Wis.; MEA 2,400. *3,500—MRA.
From Bradford, Pa., VOR; to Slate Run,

Pa., VOR; MEA 4,000.

From Slate Run, Pa., VOR; to Selinsgrove, Pa., VOR; MEA 4,000.

Section 610.6604 VOR Federal airway 1504 is amended to read in part:

From Etna INT, Utah; to Strevell INT, Utah; MEA 12,000.

Section 610,6604 VOR Federal airway 1504 is amended by adding:

From *Malad City, Idaho, VOR; to **Big Piney, Wyo., VOR; MEA ***15,000. *10,000—MCA Malad City VOR, eastbound. **12,500—MCA Big Piney VOR, westbound. ***13,-500-MOCA.

From Big Piney, Wyo., VOR; to *Hudson INT, Wyo.; MEA 15,000. *12,200—MRA. *12,700—MCA Hudson INT, westbound.

From Hudson INT, Wyo.; to Casper, Wyo., VOR; MEA *12,500. *10,000—MOCA.

Section 610.6606 VOR Federal airway 1506 is amended to read in part:

From Sioux City, Iowa, VOR; to Fort Dodge, Iowa, VOR; MEA 3,000.

Section 610.6608 VOR Federal airway 1508 is amended to read in part:

From Sioux City, Iowa, VOR; to Fort Dodge, Iowa, VOR; MEA 3,000.

Section 610.6612 VOR Federal airway 1512 is amended to read in part:

From *Gordon INT, Colo.; to **Rattle-snake INT, Colo.; MEA ***10,500. *12,000—MCA Gordon INT, westbound. **10,500—MCA Rattlesnake INT, westbound. ***8,500---MOCA.

Section 610.6614 VOR Federal airway 1514 is amended to read in part:

From Oakland, Calif., VORTAC; to Sunol INT, Calif.; MEA 4,000.

From *Delano INT, Utah; to **Hanksville, Utah, VOR; MEA ***#16,000. *16,000—MCA Delano INT, eastbound. **11,000—MCA Hanksville VOR, westbound. ***15,000—
MOCA. #Continuous navigation signal coverage does not exist over the entire route segment below 18,000 feet.

Section 610.6616 VOR Federal airway 1516 is amended to read in part:

From Oakland, Calif., VORTAC; to Sunol INT, Calif.; MEA 4,000.

From Ponca City, Okla., VOR; to Oswego, Kans., VOR; MEA 2,500.

From Oswego, Kans., VOR; to *Waco INT, Mo.; MEA 2,500. *6,500—MRA.
From Waco INT, Mo.; to Avilla INT, Mo.; MEA *2,900. *2,600—MOCA.
From Avilla INT, Mo.; to Springfield, Mo.,

VOR; MEA 2,600 (deletes MEA Joplin LOM to Avilla INT).

Section 610.6620 VOR Federal airway 1520 is amended to read in part:

From *Piedmont INT, Tenn.; to **White Pine INT, Tenn.; MEA 4,000. *8,000-MRA. **5.000--MRA.

From White Pine INT, Tenn.; to *Ottway INT, Tenn.; MEA 4,000. *7,200—MRA.

Section 610.6633 VOR Federal airway 1533 is amended to read in part:

From Sacramento, Calif., VOR; to *Capital INT, Calif.; MEA 2,000. *3,700—MRA. From Capital INT, Calif.; to *Grimes INT,

Calif.; MEA 2,000. *4,000-MCA Grimes INT, northbound.

From Red Bluff, Calif., VORTAC; to Klam-VORTAC: *13.500. ath Falls. Oreg., *10,000—MOCA.

From Klamath Falls, Oreg., VORTAC; to Redmond, Oreg., VOR; MEA *12,000. *10,000 -MOCA

From Redmond, Oreg., VOR; to *Heppiner INT, Oreg.; MEA **10,500. *10,000—MRA. **8,000-MOCA.

(Secs. 313(a), 307(c), 72 Stat. 752, 749; 49 Ù.S.C. 1354(a), 1348(c)

These rules shall become effective June 30, 1960.

Issued in Washington, D.C., on June 1, 1960.

B. PUTNAM, Acting Director, Bureau of Flight Standards.

[F.R. Doc. 60-5102; Filed, June 7, 1960; 8:45 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

PART 4-ESTABLISHMENT OF CHARGES FOR CERTIFYING, SEARCHING, AND COPYING SERVICES

Part 4 of Subtitle A of Title 15 of the Code of Federal Regulations is revised to read as follows:

Charges for certifications.

Charges for searching records and for copying records and documents.

AUTHORITY: $\S\S$ 4.1 and 4.2 issued under 56 Stat. 1067; 5 U.S.C. 606.

§ 4.1 Charges for certifications.

Effective May 15, 1960 and except when otherwise provided by statute, the charge for each certification as to the official nature of copies of correspondence and records from the files, publications and other documents of the Department, including the affixing of the Department of Commerce seal or the properly authorized office or bureau seal. in appropriate cases, shall be 50 cents.

§ 4.2 Charges for searching records and for copying records and documents.

Fixed fees and charges for searching records and for copying records and documents are established by the individual organization units of the Department and are published, as appropriate, in applicable titles and chapters of the Code of Federal Regulations.

Dated: June 1, 1960.

FREDERICK H. MUELLER, Secretary of Commerce.

[F.R. Doc. 60-5187; Filed, June 7, 1960; 8:49 a.m.]

Title 16—COMMERCIAL **PRACTICES**

Chapter I—Federal Trade Commission

[Docket 7646 c.o.]

PART 13—PROHIBITED TRADE **PRACTICES**

B. Gertz, Inc.

Subpart-Advertising falsely or misleadingly: § 13.155 Prices: § 13.155-40 Exaggerated as regular and customary; § 13.155-80 Retail as cost, etc., or discounted; § 13.155-85 Sales below cost. Subpart—Invoicing products falsely: § 13.1108 Invoicing products falsely; § 13.1108-45 Fur Products Labeling Act. Subpart-Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 Formal regulatory and statutory requirements; § 13.1852-35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 719; 15 U.S.C. 45, 691) [Cease and desist order, B. Gertz, Inc., Jamaica, Long Island, N.Y., Docket 7646, April 20, 1960]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a furrier in Jamaica, Long Island, N.Y., with violating the Fur Products Labeling Act by advertising in newspapers which falsely represented prices of fur products to be "Below wholesale" and below or at cost, and represented excessive amounts to be the usual prices: by failing to maintain adequate records as a basis for such pricing claims; and by failing to comply with invoicing requirements.

Accepting a consent agreement, the hearing examiner made his initial decision and order to cease and desist which became on April 20 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That B. Gertz, Inc., a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products, which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Falsely or deceptively invoicing fur products by:

(a) Failing to furnish to purchasers of fur products an invoice showing all of the information required to be disclosed by each of the subsections of section 5(b) (1) of the Fur Products Labeling Act.

(b) Setting forth information required under section 5(b)(1) of the Fur Produets Labeling Act and the rules and

abbreviated form.

2. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale, or offering for sale of fur products, and which:

(a) Represents, directly or by implication, that the prices of fur products are "below wholesale", or words of similar import, when such is not the fact.

(b) Represents, directly or by implication that the prices of fur products are below or at respondent's cost, or words of similar import, when such is not the fact.

(c) Misrepresents in any manner the savings available to purchasers of respondent's fur products.

(d) Represents in any manner that any amount is respondent's regular or usual price of fur products when such amount is in excess of the price at which respondent has usually and customarily sold such products in the recent, regular course of its business.

3. Making pricing claims and representations respecting prices and values of fur products unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered. That the respondent herein shall within sixty (60) days after. service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: April 20, 1960.

By the Commission.

ROBERT M. PARRISH, [SEAL] Secretary.

[F.R. Doc. 60-5159; Filed, June 7, 1960; 8:46 a.m.l

[Docket 7685 c.o.]

PART 13-PROHIBITED TRADE **PRACTICES**

Rosenbaum Company of Pittsburgh

Subpart-Advertising falsely or misleadingly: § 13.30 Composition of goods; § 13.30-30 Fur Products Labeling Act. Subpart-Concealing, obliterating or removing law required and informative marking: § 13.512 Fur products tags or identification. Subpart—Invoicing products falsely: § 13.1108 Invoicing products falsely; § 13.1108-45 Fur Products Labeling Act. Subpart-Misbranding or mislabeling: § 13.1185 Composition; § 13.-1185-30 Fur Products Labeling Act; § 13.1212 Formal regulatory and statutory requirements; § 13.1212-30 Fur Products Labeling Act. Subpart-Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 Composition: § 13.1845-30 Fur Products Labeling Act; § 13.1865 Manufacture or preparation: § 13.1865-40 Fur Products Labeling Act: § 13.1900 Source or origin: § 13.1900-

regulations promulgated thereunder in 40 Fur Products Labeling Act; § 13.1900-40(b) Place. Subpart—Using misleading name, § 13.2280 Composition; § 13.2280-30 Fur Products Labeling Act.

> (Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 719; 15 U.S.C. 45, 69f) [Cease and desist order, Rosenbaum Company of Pittsburgh, Pittsburgh, Pa., Docket 7685, April 14, 1960]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a Pittsburgh furrier with violating the Fur Products Labeling Act by mutilating labels on fur products prior to ultimate sale and delivery; by setting forth on invoices and in advertising the name of another animal than that producing the fur; by advertising in newspapers which failed to disclose the names of animals producing certain furs or the country of origin or that furs were artificially colored, and by failing in other respects to comply with labeling and invoicing requirements.

Accepting a consent agreement, the hearing examiner made his initial decision and order to cease and desist which became on April 14 the decision of the Commission.

The order to cease and desist is as

It is ordered, That respondent Rosenbaum Company of Pittsburgh, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution, in commerce, of any fur product, or in connection with the sale, advertising, offering for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in com-merce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

- 1. Mutilating, or causing the mutilation or participation in the mutilation of, labels required to be affixed to fur products, prior to the time fur products are sold and delivered to the ultimate purchaser of such products.
 - 2. Misbranding fur products by:
- A. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.
- B. Setting forth on labels affixed to fur products information required under section 4(2) of the Fur Products Labeling Act and the rules and regualtions promulgated thereunder:
- (1) Mingled with non-required information.
 - (2) In handwriting.
- C. Failing to set forth the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in the required sequence.
- 3. Falsely or deceptively invoicing fur products by:

- A. Failing to furnish the purchasers of fur products an invoice showing all the information required to be disclosed by each of the subsections of section 5(b) (1) of the Fur Products Labeling Act.
- B. Falsely or deceptively invoicing or otherwise identifying any such products as to the name or names of the animal or animals that produced the fur from which such products were manufactured.
- C. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.
- D. Failing to set forth the item number or mark assigned to a fur product.
- 4. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of fur products and which:
 - A. Fails to disclose:
- (1) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide, and as prescribed under the rules and regulations:
- (2) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact:
- (3) The name of the country of origin of any imported furs contained in a fur product.
- B. Sets forth the name or names of any animal or animals other than the name or names specified in section 5(a)(1) of the Fur Products Labeling Act.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: April 14, 1960.

By the Commission.

[SEAL]

ROBERT M. PARRISH, Secretary.

[F.R. Doc. 60-5160; Filed, June 7, 1960; 8:46 a.m.l

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army SUBCHAPTER E-ORGANIZED RESERVES

PART 561—ARMY RESERVE

Appointments

1. Section 561.8(d)(1) is amended to read as follows:

§ 561.8 Eligibility.

*

(d) Mental requirements. Applicant will be administered the Armed Forces

Qualification Test AFQT-3 or -4, by the examining board, and must achieve a percentile score of 74 or higher thereon except for the following:

- (1) Those who have a previously recorded percentile score of 74 on the AFQT-1 or -2, or standard score of 115 or higher on AFQT-1 or -2, the Army General Classification test (AGCT), the general classification test (GCT), Aptitude Area I, or General Technical Aptitude Area (GT).
- 2. In § 561.20, revise paragraphs (c) and (e) as follows:
- § 561.20 Appointment of professional and technical personnel as Reserve Commissioned Officers of the Army.
- (c) Grade. Initial appointments are authorized under this section in recognition of advanced professional or technical experience and training, in accordance with the grades indicated in paragraph (d) (4) of this section. However, appointments up to and including the grade of colonel may be made when an individual possesses outstanding qualifications for which a need exists in the military service.
- (e) Supplementary military training. (1) Applicants who are appointed under this section and who are not assigned to a TOE or TD unit in the Ready Reserve, will be required to complete the appropriate extension course series within 2 years of date of appointment, except when the applicant is ordered to active duty at time of appointment or when the Department of the Army evaluates the applicant's prior military service, where applicable, and determines that such service is the equivalent of the subject matter of the appropriate Army extension course or courses. Determination of extension courses to be completed will be made by the Department of the Army at the time the individual's application for appointment is approved. Necessarv records will be maintained by the appropriate area commander to determine whether the individual satisfactorily completed the required courses. Those failing to comply with this requirement are subject to discharge as provided for in paragraph (f) of this section.

(2) The requirements in subparagraph (1) of this paragraph may be fulfilled at any time by the successful completion of an appropriate associate basic course.

(3) Applicants without prior service appointed under this section and who are assigned to a TOE or TD unit in the Ready Reserve will be encouraged to enroll in appropriate extension courses as soon as practicable in order that they may qualify themselves in areas not covered by civilian education and/or experience. Area commander will insure that information regarding extension courses is furnished newly appointed officers under this section. (Area commanders will inform individuals who have been appointed and have been assigned to TOE or TD units in the Ready Reserve and who are obligated to complete an appropriate extension course series within 2 years of date of appointment, that the statement appearing on the letter of appointment as pertains to completion of the extension course series no longer applies. Area commanders will encourage such individuals to continue in their present extension course series.)

- 3. In § 561.21(c) (1) (i), revise heading for MOS 8104, and add new MOS numbers, as follows:
- § 561.21 Appointment as Reserve Commissioned Officers of the Army for assignment to the Civil Affairs/Military Government Branch. *
- (c) Special requirements. (1) In addition to the requirements of section I. the applicant must:
 (i) Qualify for an * * * of such MOS.

• • . Civil Affairs/Military Government Officer _____ MOS 8104 Preventive Medicine Officer_____ MOS 3005 Sanitary Engineer _____ MOS 7960 Legal Officer_____ MOS 8101 [C 11, AR 140-100, May 9, 1960] (Sec. 280. 70A Stat. 14; 10 U.S.C. 280)

> R. V. LEE, Major General, U.S. Army, The Adjutant General.

[F.R. Doc. 60-5152; Filed, June 7, 1960; 8:45 a.m.1

Title 43—PUBLIC LANDS: **INTERIOR**

Chapter I-Bureau of Land Management, Department of the Interior

> SUBCHAPTER H-GRAZING [Circular 2046]

PART 160-GRAZING LEASES

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Compensation for Loss of Improvements; Restrictions in Gathering Unlicensed Horses and Burros From **Public Lands**

On page 81 of the FEDERAL REGISTER of January 6, 1960, there were published proposed amendments to § 160.12 and § 161.15, Title 43, Code of Federal Regulations, governing compensation to lessees and permittees for loss of improvements placed on public lands, and banning the use of airplanes and motor vehicles in the gathering of unlicensed horses and burros from public lands to conform to Public Law 86-234. Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed regulations.

As a result of comments received, the following changes in the proposed regulations are made:

Section 160.12, line 14: To avoid an unusually long sentence, a period is placed after the word "upon". The following words, "except that", are stricken and a new sentence is begun with the word "If".

"needed" the words "by the United States" are inserted.

Section 161.15, line 21: To avoid an unusually long sentence, a period is placed after the word "cooperators". The following words, "except that", are stricken and a new sentence is begun with the word "If".

Section 161.15, line 36: After the word "needed" the words "by the United States" are inserted.

As changed, the regulations are adopted and are set forth below. They shall become effective at the beginning of the 30th calendar day following date of publication in the Federal Register.

> FRED A. SEATON. Secretary of the Interior.

JUNE 1, 1960.

- 1. Paragraph 160.12(a) is amended to read as follows:
- § 160.12 Lease lands subject to disposition; compensation to lessee for loss of improvements.
- (a) Lands embraced in a grazing lease are subject to disposition under the provisions of the Act of June 28, 1934 (48 Stat. 1272, 1274), as amended, or other public land laws. Before any application for such disposition is allowed, evidence must be furnished that the applicant has agreed to compensate the lessee and the United States for any grazing improvements placed on the lands under the authority of the lease, permit, or cooperative agreement in an amount and manner to be mutually agreed upon. If such improvements have been constructed in whole or in part with Federal funds and are administered by the Bureau of Land Management, and the application for disposal is in satisfaction of any lieu or indemnity selection right of any State under R.S. 2275, as amended (43 U.S.C. 851), such application may be allowed in the discretion of the authorized officer without com-pensation to the United States for its share of the value of the improvements, if the authorized officer shall first determine that the grazing improvements are no longer used or needed by the United States for the purpose for which the improvements were constructed and that the probable salvage value is insufficient to warrant the expense of removal of the salvageable materials in such improvements. If the parties are unable to agree as to the amount, manner, and time for compensation for such improvements, the amount, manner, and time shall be fixed by the authorized officer. The failure of the applicant to comply with the agreement or the conditions fixed by the authorized officer shall be just cause for cancellation of any right or interest in the lands acquired by the applicant by reason of the allowance of his application.
- 2. Paragraph 161.12(c)(2) is amended to read as follows:

Section 160,12, line 29: After the word § 161.12 Procedure for enforcement of no longer used or needed by the United rules and regulations.

> (c) Unlawful grazing on Federal range; removal of livestock; impound-ment. * * *

- (2) In any case where the owner of the trespassing livestock, or his representative, is unknown, or where con-servation of the Federal range and of the forage thereon requires it, the district manager when so authorized by order of the State Supervisor may take steps to remove the trespassing livestock by such methods and by such means not inconsistent with legislation which prohibits the use of airborne or motordriven vehicles in the gathering of horses and burros, as may be necessary, and to dispose of them by sale or otherwise within not less than 48 hours after public notice of his intention to make such disposition, subject to the right of any owner or registered lien holder of such trespassing livestock to redeem the livestock within such nondisposal period upon payment of (i) the value of the forage consumed, (ii) damage to the Federal range and other property of the United States, and (iii) the cost of such impoundment and removal, as determined by the district manager.
- 3. Paragraph 161.15(g) (2) (i) amended to read as follows:
- § 161.15 Construction and maintenance of improvements on the Federal range.
- (g) Applications for lands containing range improvements; compensation; reservation. * *
- (2) (i) When the disposal application covers public land upon which range improvements have been placed by the United States, or pursuant to a cooperative agreement heretofore or hereafter entered into between the Bureau and the licensee, permittee, and/or other cooperators, the disposal application will be referred by the land office manager to the district manager for determination as to whether it may be allowed, notwithstanding such improvements, and, if so, whether with or without a reservation. If the application is to be allowed without a reservation of the improvements, the applicant may be required to agree in writing to compensate for the loss of such improvements in the amounts to be mutually agreed upon and payable separately to the Bureau and to the cooperators. If such improvements have been constructed in whole or in part with Federal funds and are administered by the Bureau of Land Management, and the application for disposal is in satisfaction of any lieu or indemnity selection right of any State under R.S. 2275. as amended (43 U.S.C. 851), such application may be allowed in the discretion of the authorized officer without compensation to the United States for its share of the value of the improvements. if the authorized officer shall first determine that the grazing improvements are

States for the purpose for which the improvements were constructed and that the probable salvage value is insufficient to warrant the expense of removal of the salvageable materials in such improvements. In the event of disagreement, the district manager shall determine the total amount of compensation due, as provided in paragraph (e) of this section, and the time for payment. Such amount shall then be payable separately to the Bureau and to the cooperators entitled thereto, in proportion to the amount or value of their respective contributions in money, material, or labor, to the total cost of the improvement, as made by them under the original cooperative agreement, as specified by the district manager.

[F.R. Doc. 60-5163; Filed, June 7, 1960; -8:46 a.m.]

[Circular 2045]

PART 161-THE FEDERAL RANGE **CODE FOR GRAZING DISTRICTS**

Adjudication of Grazing Privileges; **Graduated Reduction for Hardship**

On page 9627 of the FEDERAL REGISTER of December 2, 1959, there were published proposed amendments to § 161.2 and § 161.6, Title 43, Code of Federal Regulations, to standardize the meaning and use of the term "adjudication of grazing privileges" and to provide a graduated reduction for hardship cases where grazing privileges are required to be reduced to reach the grazing capacity of the Federal range.

Interested persons were given 30 days within which to submit written comments with respect to the proposed amendments. After consideration of all such relevant matter as was presented regarding the proposed amendments, the regulations are hereby adopted and are set forth below. These amendments shall become effective at the beginning of the 30th calendar day following the date of publication in the FEDERAL REGISTER.

> FRED A. SEATON, Secretary of the Interior.

JUNE 1, 1960.

1. A new paragraph (r) is added to § 161.2, as follows:

§ 161.2 Definitions.

(r) "Adjudication of grazing privileges" is the determination of the qualifications for grazing privileges of the base properties, land (§ 161.2(k) (1)) or water (§ 161.2(p) (1)), offered in support of applications for grazing licenses or permits in a range unit or area, and the subsequent equitable apportionment among the applicants of the forage production within the proper grazing season and capacity of the particular unit or area of Federal range, and acceptance by the applicants of the grazing privileges based upon the apportionment or its substantiation in a decision by an examiner, the Director, or the Secretary upon appeal. (Applicable provisions are §§ 161.1 to 161.5, inclusive; § 161.6 (a) and (b); § 161.6(e) (1) to (4), inclusive; § 161.6 (f); § 161.6(g); § 161.9 and § 161.10.)

2. Paragraph (e) (3) of § 161.6 is amended, and subparagraph (1) (ii) is amended and new subparagraphs (3) and (4) are added to paragraph (f), as follows:

§ 161.6 Issuance of licenses and permits.

* * . (e) Terms and conditions. * * *

(3) No license or permit will confer grazing privileges in excess of the grazing capacity of the Federal range to be used, as determined by the district manager, except as may be allowed under paragraph (f) (3) of this section. .

(f) Reduction. (1) * * *

*

(ii) Regular licenses or permits to the extent, if any, to which they are in excess of the base property qualifications or have been otherwise improperly issued:

(3) When the district manager, after recommendation by the advisory board, determines that the imposition of the full amount of certain reductions in grazing privileges from current licensed or permitted use necessary to reach the grazing capacity of a range area would impose a serious hardship on the range users, he is not required to impose the full amount of the reduction forthwith, but will then schedule a percentage of the required reduction during each of the three years immediately following the determination as the circumstances of each case may warrant, except when the total reduction is less than fifteen percent it may not be so scheduled but will be imposed forthwith in the full amount. (4) The district manager will notify each affected licensee or permittee by certified mail of his decision to make a reduction in grazing privileges to reach the grazing capacity of any Federal range area and of the manner in which the reduction is to be made. The district manager's decision notice will allow thirty days from receipt thereof in which to file any desired appeal in accordance with § 161.10 of this part. If no appeal is filed within the thirty-day period, the reduction will be made in accordance with the district manager's decision, and no further appeal will be allowed even though the reduction may be scheduled under subparagraph (3) of this paragraph to cover a period of time up to three years. If any timely appeal is filed after receipt of the district manager's decision notice. the reduction for the entire Federal range area under consideration will be deferred pending the completion of the appeal and hearing procedure. Any reduction provided by the ultimate decision will be applied to its full extent immediately after the effective date of that decision. If, however, the final decision on appeal is rendered within the three-year reduction period established by the decision notice of the district

manager, the required adjustment may

be apportioned over the remaining portion of that period. In the event that the orderly administration of the range or other public interest so requires, any decision may be placed in full force and effect in accordance with the provisions of § 161.10(i)(2).

[F.R. Doc. 60-5162; Filed, June 7, 1960; 8:46 a.m.]

Title 47—TELECOMMUNICATION

[Docket No. 11331; FCC 60-615]

Chapter I—Federal Communications Commission

PART 1-PRACTICE AND PROCEDURE PART 4-EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST SERV-**ICES**

Operation of Co-channel Amplifying Transmitters in Conjunction With Main Transmitter

1. The Commission has before it for consideration its Memorandum Opinion and Notice of Further Proposed Rule Making (FCC 57-700), issued in this proceeding on July 2, 1957, proposing the authorization of television broadcast booster stations for use in conjunction with UHF television broadcast stations.

- 2. This proceeding was instituted on March 31, 1955, by a Notice of Proposed Rule Making (FCC 55-404) designed to elicit information on the desirability and feasibility of licensing UHF television cochannel amplifying transmitters, generally referred to as TV boosters. The Notice contemplated that such devices would be used by the licensees of UHF television broadcast stations to receive, amplify and retransmit the signals of the TV broadcast station on the original channel in order to "boost" the signal in areas of sub-normal signal intensity. After reviewing the comments directed to this phase of the proceeding, the Commission, on June 27, 1957, adopted a Memorandum Opinion and Notice of Further Proposed Rule Making proposing specific rules to govern UHF television boosters.
- 3. There was no opposition to the general proposal. Some of the comments merely endorsed the proposal without commenting on the specific rules; others suggested certain modifications; and a few requested that provision be made for VHF boosters.
- 4. Governor McNichols of Colorado filed comments on behalf of the Governors of several western states urging that provision be made for licensing the numerous low-power television boosters and translators operating in the VHF television band without Commission authorization.1

- 5. Two other parties filed comments supporting the subject proposal but requesting that it be expanded to include VHF boosters and translators. vision Montana, Inc. (KXLF-TV, Channel 4. Butte, Montana) proposed the licensing of VHF boosters with power up to 100 watts not only to the licensee of the primary TV station but to other 'qualified applicants." The Washington State TV Reflector Association endorsed the subject proposal but requested that the proceeding be expanded to include provision for licensing devices such as those now being operated by its members.2
- 6. The Commission by a Memorandum Opinion and Order of July 29, 1957, initiated a separate proceeding (Docket No. 12116) concerning low power TV repeater stations. In the judgment of the Commission, the considerations involved in that proceeding are not sufficiently related to the matters considered in the subject proceeding to be included herein. Since none of the parties commenting with respect to the above problem objected to the subject proposal for UHF, their comments need not be considered further in this UHF booster proceeding.
- 7. The following parties generally supported the proposal but did not comment with respect to specific rules: Basin TV Company (KBAS-TV, Channel 43, Ephrata, Washington), WATR, Inc. (WATR-TV, Channel 53, Waterbury, Connecticut), Prairie Television Company (WTVP, Channel 17, Decatur, Illinois), Great Lakes Television Company (WSEE, Channel 35, Erie, Pennsylvania), KCOR, Inc. (KCOR-TV, Channel 41, San Antonio, Texas), Sir Walter Tele-vision Company (WNAO-TV, Channel 28, Raleigh, North Carolina), WBRE-TV, Inc. (WBRE-TV, Channel 28, Wilkes Barre, Pennsylvania), Committee for Competitive Television and American Broadcasting Company.

8. Six parties submitted comments which support the proposal generally but suggest certain modifications. These are discussed in the following para-

graphs.

9. Adler Electronics, Inc., which is engaged in the production of UHF transmitting apparatus, has operated an experimental UHF booster in conjunction with WATR-TV (Channel 53, Waterbury, Connecticut) since July 1955. Adler endorses the general proposal and subscribes to the comments of Electronics Industries Association (formerly RETMA). Adler suggests that the required suppression of emissions more than 3 mc above or below the assigned TV channel be reduced from 60 decibels to 40 decibels below the peak visual carrier power, with additional suppression added in individual cases if

In connection with that pleading, the following parties filed comments endorsing the Governor's comments: Congressman Don Magnuson (Washington), Congressman Emanuel Celler (New York), Congresswoman Gracie Pfost (Idaho), and Governor Charles H. Russell of Nevada. In addition, the following parties referred to or forwarded copies of the pleading filed by the Governor of

Colorado and requested that they be kept advised of developments: Senator Carl Hayden (Arizona), Senator Warren G. Magnuson (Washington) and Congressman Roosevelt (California).

To the extent that they may be pertinent. the comments of Television Montana, Inc., will be considered in Docket No. 12116.

^{*} Their comments generally paralleled those of Governor McNichols and will be considered in Docket No. 12116 concerning low power television repeater stations.

objectionable interference occurs. Adler contends that the proposed 60 decibels of suppression would add considerably to the cost of basic equipment and would be unnecessary at the majority of the actual installations.

10. Columbia Broadcasting System, Inc. supports the proposal generally but recommends the following modifications:

- (a) CBS suggests that the rules expressly state that there is no numerical limit on the number of boosters used by a licensee to fill in shadows in its normal service area.
- (b) CBS urges that the rules should clearly show that there is no fixed minimum separation required between boosters or between a booster and other TV broadcast stations since potential interference is controlled to a great extent by limitations on power and field intensity as well as the provision limiting boosters to the Grade A service area of the parent station.

(c) CBS submits that the provision in § 4.803(a) suggesting adjustment of time differential as a corrective measure for interference is impractical and should be deleted.

- (d) CBS urges that the reference to "principal community" in §§ 4.835 and 4.837 should be deleted since the principal community might be difficult to determine and the provisions could impose an artificial and unnecessary barrier to providing service to two adjacent communities from a single booster. CBS suggests that "center of the area of highest concentration of population" could be used instead.
- (e) CBS believes that the proposed requirement of § 4.803(c) that the booster licensee "assume full responsibility for resolving all valid complaints of interference" may be impossible to meet and recommends that the responsibility of the booster licensee be limited to "reducing the interference to a minimum."
- (f) CBS suggests that the provision of § 4.883(b), which states that the Commission may request the operator on duty at the TV broadcast station to interrupt the transmissions of the booster for short intervals to aid in identification of a particular booster, should be modified to limit such requests to times when the booster is not transmitting programs since such interruptions may prove annoying to viewers.
- 11. Radio-Electronics-Television Manufacturers Association (RETMA), now Electronics Industries Association (EIA), supports the proposal generally but comments specifically with respect to the following:
- (a) EIA now supports the proposal to restrict the use of boosters to areas within the Grade A contour of the primary TV station.
- (b) EIA agrees that a reduction in out-of-band emissions should be specified but recommends that the proposed requirement be reduced from 60 decibels to 40 decibels below the visual carrier power, with additional attentuation required in individual cases of interference.
- (c) EIA opposes any maximum limit on power since such a restriction may raise problems when a booster operates

close to the primary station. EIA is of the opinion that the amount of power which may be employed will be automatically limited by design considerations, which restrict the possible gain in the amplifier because of "feed-back" problems. The output power would thus be controlled by the strength of the signal available from the primary station and would decrease with distance from the primary station.

(d) EIA recommends against imposing a maximum field intensity over the area to be served since this will be governed by the automatic limit on power output. In this connection, EIA believes the political boundaries of a "principal community" would be difficult to define.

(e) EIA supports the proposal which would limit the field strength to not more than 5 millivolts per meter at 68 miles from the primary station.

(f) EIA suggests that the term "maximum overall gain" in § 4.850(d) be changed to "maximum utilized gain" to embrace circumstances where the booster amplifier might be operated below its maximum capabilities.

12. Joint Council on Educational Television (JCET) supports the proposal generally but expresses concern that boosters operating in locations at less than the minimum separations required by regular TV broadcast stations may cause interference under certain conditions. JCET suggests that an applicant proposing a booster at less than the normally required separation from any TV broadcast station be required to submit a special showing with regard to potential interference.

13. Indiana Broadcasting Corporation supports the proposal generally but believes that the requirement of § 4.834(a) (3), that a manned control point be established in the areas served by the booster, would add substantially to the cost of operation and might discourage the use of boosters. Indiana Broadcasting suggests that the rules also permit remote control of boosters from the primary station if automatic devices are incorporated which will transmit a warning signal to the control point by wire lines if the booster equipment malfunctions.

14. National Broadcasting Company, Inc. supports the proposal generally and stated that it was considering the use of boosters in conjunction with its UHF stations at Buffalo, New York and New Britain, Connecticut. NBC suggests the following modifications:

(a) Delete the provision in § 4.832(b)

(1) that would require a showing that 50 percent of the locations in the area proposed to be served by the booster receive signals of less than 5 millivolts per meter from the primary station. NBC contends that this requirement would be burdensome, that making such a determination with respect to the "principal community" would not necessarily indicate that the area adjacent to the "principal community" and served by the contemplated booster had less than 5 millivolts at more than 50 percent of

the locations, and that the purpose of the rule is obscure. NBC urges that deletion of this requirement would not lead to abuses since self-interest would deter broadcasters from placing boosters in areas where they are not actually needed.

- (b) Delete the restriction on maximum power in § 4.835(c) and let this be governed by the strength of the signal available from the primary station at the booster location. NBC contends that the provisions of § 4.803(c) and (d) afford adequate protection to other services from interference by the booster and that limiting the 5 millivolt per meter field to within the Grade A contour of the primary station guards against extension of the service area of a TV station.
- (c) NBC states that the reference in § 4.835(a) to political boundary of the principal community may be difficult to determine and that elimination of the limit on maximum power and maximum field intensity would remove any need for such a reference point.

DISCUSSION.

- 15. The Commission agrees with CBS that the sentence in § 4.803(a) concerning adjustment of the time differential of the modulation envelope should be deleted.
- 16. On the basis of the comments of NBC with regard to § 4.832(b)(1), we have reconsidered the proposed requirement that booster applicants indicate the quality and extent of direct reception in the area proposed to be served, and agree that the cost and complexity of the necessary field strength survey outweighs the importance of the data so obtained. This requirement has therefore been deleted.
- 17. We do not agree with the suggestion by CBS regarding § 4.803(c)—that the licensee of a booster should assume responsibility for interference only to the extent of "reducing it to a minimum." On-channel amplifiers used for "boosting" and re-radiating TV signals inherently are a source of potential interference. The subject rules stress this fact and there will undoubtedly be places where boosters cannot be operated because of insoluble interference problems. Where a TV booster is authorized, the burden of resolving interference must, in our judgment, rest with the licensee. In the experimental UHF booster operations that have been conducted to date, it has been found that when a UHF booster is properly located, it is possible to eliminate interference through the use of readily available engineering procedures. If the circumstances are such that the booster cannot be properly located, the operation is not feasible. The Commission is placing the burden of eliminating interference on the licensee to prevent the use of boosters to provide service to one group of people at the expense of service to another group, even though such use might result in a net gain in audience.
- 18. We have carefully considered the comments of Indiana Broadcasting Corporation concerning the establishment of a monitoring point in the area served by the booster and conclude that the

⁴NBC has since terminated the UHF operation at Buffalo and disposed of its UHF station at New Britain:

additional protection against interference caused by improper operation, which might be afforded by the establishment of a local monitoring point is not sufficient to warrant the cost of establishing such a monitoring point. The most important feature of the originally proposed local monitoring point was the provision for manual on and off control of the booster, particularly in the event of failure of the remote on and off control. This problem has been met by adding a requirement to the remote control provision which makes necessary the periodic transmission of a "cue" signal by the primary station. Failure of the primary station to transmit the cue signal or failure of the booster control circuit to receive the cue signal will automatically place the transmitter in an inoperative condition. The cue signal need not be transmitted more frequently than intervals of one hour.

19. CBS, NBC, and EIA commented extensively with respect to § 4.835. It is their consensus that using the political boundaries of a "principal community" as a reference point in connection with the maximum limit on field intensity radiated by a booster is impractical and might introduce artificial restrictions on the use of boosters. All of the parties subscribed to the provisions of paragraph (b) (4) of this section, which would prohibit the radiation of a field having an intensity in excess of 5 millivolts per meter beyond the theoretical Grade A contour (68 miles) of the primary station; and EIA and NBC submitted that the further restriction limiting the radiated field to 5 millivolts per meter over the "principal community" is unnecessary. CBS suggested as a reference point "the center of the area of highest concentration of population" in the area proposed to be served by the booster in applying the proposed restriction. NBC and EIA recommended that paragraph (c) be deleted and that no maximum power limit be specified. Both expressed the view that there is an automatic limit on power imposed by the practical limits on the amplification of the signals received from the primary station which can be accomplished. They maintain that since the strength of the direct signals diminish with the distance from the primary station, less power can be employed at the booster as the distance from the primary station increases, and no specified limit is necessary.

20. We adhere to our belief that a ceiling on the maximum power which may be used by a television broadcast booster station, should be included in these rules. However, we have reconsidered the original proposal which would have determined this "ceiling" on the basis of a predicted field strength over a "principal community" and conclude that this would add an unnecessary complexity to the rules. Accordingly, the rules adopted herein limit the power in only two regards: (1) the maximum effective radiated power which will be authorized is 5 kilowatts, and (2) no booster installation will be authorized which would produce a predicted field of more than 5 millivolts per meter beyond the normal

Grade A (68 mile) contour of the primary station.⁵ The problem of interference to other television stations, raised by JCET, is met by the provisions of § 4.804 which require the TV booster licensee to correct any condition of interference to other TV stations which occurs as the result of a field strength from the booster in excess of that which could be produced at the place where the interference occurs, by the primary station if it were operating at its authorized location with an effective radiated power of 5,000 kilowatts from an antenna 2,000 feet above average terrain.

21. Deletion of the rules which would have required determination of field strength over a "principal community" eliminates the need for establishing such a reference point. For record purposes a booster will be identified with the largest community in the area which it serves, i.e., the license, in addition to the geographic coordinates, will specify such community.

22. With regard to CBS's suggestion that the rules clearly show that no numerical limit is placed on the number of TV boosters that may be used by a single licensee, we have added language to § 4.832(c) which makes this clear.

23. On the basis of the comments of Adler and EIA, the Commission has reconsidered the proposal in § 4.836(c) which would require that spurious emissions, including any emissions more than 3 megacycles above or below the upper and lower limits of the assigned channel, be suppressed at least 60 decibels below the peak visual carrier amplitude. Adler and EIA have suggested that a suppression of only 40 decibels would be adequate. In view of the statements that achieving the additional 20 decibels of suppression above 40 decibels will add substantially to the cost of equipment and our experience with UHF translators which have been operating for over a year with less than 60 decibels suppression, we are incorporating the suggested reduction in the suppression requirement in §§ 4.836(c) and 4.850. However, § 4.836 (c) will continue to provide that additional suppression may be required in individual cases where interference is caused by out-of-band emissions.

24. JCET urges adoption of minimum geographic separations between boosters, and between a booster and a regular TV broadcast station. CBS on the other hand urges that the rules clearly show that no minimum spacings are required. JCET expresses concern at the possibility of interference if no separation requirement is specified. Application of the separation requirements of Part 3 of the rules to boosters would make it virtually impossible to find satisfactory locations in regions where boosters are needed. UHF operation is concentrated in areas

of high population density. In such areas there is often little flexibility in the allocation of UHF channels since many of the allocations have been made at or near minimum spacings. Therefore, boosters proposed to serve communities beyond the immediate area around the TV station would, in many cases, not meet minimum spacings to other UHF stations or assignments. By confining boosters within the theoretical Grade A contour, limiting the power to 5 kilowatts and requiring correction of interference which occurs as the result of fields in excess of those which could be produced by the primary station, we accomplish substantially the same degree of protection to other co-channel TV stations as is provided by the minimum separations. Interference can be controlled in most cases by the judicious choice of booster sites and the intelligent use of the directive properties of transmitting antennas and individual TV receiving antennas in the areas served by the booster. In circumstances where such measures are inapplicable, other means, such as translators or satellite operation may be employed to provide the needed service.

25. Sections 4.803, 4.804 and 4.832(b) are intended to insure that the use of a TV booster does not deprive people of otherwise satisfactory service. These rules are designed (1) to guard against the destruction of the service of a TV station other than the primary station whether or not a substitute service is provided by the TV booster and (2) to prevent the degradation of service received directly from the primary station unless the substitute service provided by the booster is of equivalent quality. However, in neither of the above cases is it intended to provide protection over and above that which is provided under the rules governing TV broadcast sta-Therefore, the responsibility of tions. the licensee of the TV booster with respect to interference, applies only in those cases where the interference results from the existence of signals from the booster having a strength in excess of that which would be produced at the same location, by the primary station operating with the maximum power and antenna height permitted under the TV rules. The provisions of § 4.804 place a continuing requirement on the licensee of the TV booster and the responsibility for resolving valid complaints of interference applies not only to interference to stations existing at the time the TV booster is placed in operation but also to interference which may develop as the result of new TV stations coming into operation. Although the rules are concerned only with actual interference, applicants should carefully consider potential interference and the hazard of interrupted operation posed thereby.

26. EIA suggested that § 4.850(d) refer to "maximum utilized gain" rather than "maximum overall gain." The term "overall gain" as used in this section simply means the net gain of the booster amplifier between the input and output terminals, and refers to the actual utilized gain, not the maximum capabilities of the amplifier. Therefore, no change

⁸ The proposal in Docket 13340 if adopted as proposed would eliminate the definition of Grade A service and revise the Field Strength Charts used for estimating service ranges. If these changes are adopted the rules relating to TV boosters will be appropriately amended to be consistent with the changes.

in the wording of this rule appears necessary.

27. We have found it unnecessary to require these boosters to transmit individual call signs. They are licensed only to the licensee of the TV broadcast station they are retransmitting and the transmission of the TV station call sign provides rapid identification. If it becomes necessary to obtain emergency suspension of operation due to interference, these devices can be turned off from the TV station by the transmission of a coded signal. The proposed rule contained a provision whereby the Commission could request that the transmissions of a booster be interrupted for short intervals of time to facilitate identification. CBS suggested that such interruptions be limited to periods when no program is being transmitted. The importance of rapid identification outweighs the slight annoyance of inconvenience of program interruption. If a TV station licensee operates more than one booster selective coding may be employed to control each booster separately. This would avoid having to turn off all the boosters when interruption of the signal of only one is needed to identify improper operation or eliminate interference. should not be necessary to interrupt the transmissions of the primary TV station for this purpose.

28. The present Television Agreements with Canada and Mexico do not cover the matter of "booster" amplifiers. Under rules such as those adopted herein, boosters may not be used to extend the service range of a TV station beyond that which it could obtain with the maximum power and antenna height at the site of its main transmitter. Consequently, such operation may be considered to come within the purview of the Agreements. However, in the interest of good international relations, the Commission will not act unilaterally in this matter and will initiate action looking toward securing concurrence of the governments of Canada and Mexico in the matter of licensing these devices in the vicinity of the borders. Pending the completion of such an arrangement, applications proposing UHF boosters in conjunction with assignments listed in the Canadian or Mexican TV Agreements and located more than 15 miles from the site of the main transmitter in the direction of the border of Canada or Mexico, will be referred to the appropriate Government on a case-by-case basis.

29. In order to implement the rules, we are adopting FCC Form 343 to be used in applying for a Construction Permit for a Television Broadcast Booster Station. This form will be available shortly.

30. Authority for the adoption of the rules herein is contained in sections 4(i), 301, 303 (a), (b), (c), (d), (e), (f), (g), (j), and (r), and 307(b) of the Communications Act of 1934, as amended.

31. Accordingly, it is ordered, That effective July 5, 1960, the Commission's rules and regulations are amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; 47 U.S.C. 301, 303, 307)

Adopted: May 25, 1960. Released: June 3, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE.

Acting Secretary.

- 1. Section 1.322(a) is amended by adding the following new subparagraph:
- § 1.322 Application forms for authority to construct a new station or make changes in an existing station.

 (a) * * *
- (6) FCC Form 343 "Application for Authority to Construct or Make Changes in a Television Broadcast Booster Station."
- 2. Section 1.325(a) is amended by adding the following new subparagraph:
- § 1.325 Application for license to cover construction permit.
 - (a) * * *
- (6) FCC Form 344 "Application for Television Broadcast Booster Station License."
- 3. Section 1.328(d) is amended by adding the following new subparagraph:
- § 1.328 Application for renewal of license.
 - (d) * * *
- (6) FCC Form 345 "Application for Renewal of Television Broadcast Booster Station License."
- 4. Section 4.15 is amended by adding the following new paragraph:

§ 4.15 License period.

(c) The license of a television broadcast booster station will be issued for a period running concurrently with the license of the television broadcast station (Primary Station) with which it is used

5. Add a new Subpart H to read as follows:

Subpart H—Television Broadcast Booster Stations

DEFINITIONS AND ALLOCATION OF FREQUENCIES

Sec.

4.801 Definitions.

4.802 Frequency assignment.

4.803 Interference to primary station.

4.804 Interference to other stations and services.

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LICENSING POLICIES

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EQUIPMENT

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TECHNICAL OPERATION

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4.864 Station inspection.

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7 Marking and lighting of antenna structures.

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4.869 Copies of rules.

OPERATION

4.881 Station records.

4.882 [Reserved].

4.883 Station identification.

4.884 Rebroadcasts.

AUTHORITY: §§ 4.801 to 4.894 issued under sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; 47 U.S.C. 301, 303, 307.

DEFINITIONS AND ALLOCATION OF FREQUENCIES

§ 4.801 Definitions.

- (a) Television broadcast booster station: A station in the broadcasting service operated for the sole purpose of retransmitting the signals of a television broadcast station by amplifying and reradiating such signals which have been received directly through space, without significantly altering any characteristic of the incoming signal other than its amplitude.
- (b) Primary station: The television broadcasting station radiating the signals which are retransmitted by a television broadcast booster station.

§ 4.802 Frequency assignment.

A television broadcast booster station will be assigned the channel and carrier frequencies assigned to its primary station.

§ 4.803 Interference to primary station.

(a) An application for a new television broadcast booster station or for a change in the facilities of an existing station shall be accompanied by a detailed showing and discussion of the areas of potential interference. The showing shall include:

(1) A suitable map of the area in which the booster is proposed to be operated showing the location of the booster, the direction from the booster toward the primary station and the distance to the primary station, the radiation pattern of the booster, and the areas in which an unfavorable ratio is likely to exist between the direct signal and the boosted signal. If certain terrain features are expected to confine or otherwise minimize interference, these shall be clearly marked.

(2) A statement as to the approximate number of existing receiving installations which may be adversely affected by the proposed booster operation and the measures which will be employed by the applicant to restore reception, including an estimate of the cost of such restoration and how this cost will be borne.

(b) It shall be the responsibility of the licensee of a television broadcast booster station to correct any condition of inter-

ference resulting from the operation of the booster to a receiving installation existing at the time the booster is placed in operation, which causes loss or degradation of on otherwise acceptable service from the primary station if requested to do so by the owner of the affected TV receiver. The licensee of the booster is expected to provide such advice, technical assistance, and materials as may be required to restore the lost service either by rejecting the booster signals to the extent necessary to restore the direct service to its original condition or by utilizing the booster service to replace the lost direct service. Refusal of the complainant to permit the application of remedies which are demonstrably capable of restoring the lost service will relieve the booster licensee of further responsibility for the correction of interference to that complainant.

§ 4.804 Interference to other stations and services.

- (a) The licensee of a television broadcast booster station is responsible for the correction of interference to reception of other television broadcast stations or stations in other services, caused by:
- (1) Radiation of radio frequency energy outside the channel assigned to the booster.
- (2) Radiation of spurious emissions, i.e., emissions not contained in the visual and sound signal received from the primary TV station, within the channel assigned to the booster.
- (3) Authorized emissions which produce a field strength at the affected receiver in excess of the theoretical field which would be produced by the primary TV station at that same location if the primary TV station were operating with 5 megawatts effective radiated power from an antenna 2,000 feet above average terrain, over a path of normal terrain. The theoretical value of field strength which could be produced by the primary station under the conditions stipulated, shall be determined by the use of the F(50.50) field strength charts for Channels 14-83, contained in § 3.699 of this chapter.
- (b) Upon notification by the Commission that such interference has been reported, operation of the booster shall be suspended and shall not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to any of the above causes: Provided, however, That short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures. In each case where suspension of operation is required, the licensee of the TV booster shall within 10 days after operation is resumed, submit a full report to the Commission of the cause and nature of the interference and the remedial steps taken to eliminate the interference.
- (c) An application for a new television broadcast booster station shall contain a suitable map showing the locations of the proposed booster and all other TV boosters and television broadcast stations within 75 miles of the proposed booster site and operating on the same channel as the proposed booster or on

any related channel shown in the columns opposite the proposed booster channel in Table IV of § 3.698 of this chapter.

ADMINISTRATIVE PROCEDURE

§ 4.811 Administrative procedure.

See §§ 4.11 to 4.16 inclusive.

LICENSING POLICIES

§ 4.831 Purpose and permissible service.

Television broadcast booster stations provide a means whereby the licensees of television broadcast stations operating in the UHF television broadcast band may provide service to areas of low signal intensity in any region which would be encompassed by the theoretical Grade A contour if the station were assumed to be operating with an effective radiated power of 5,000 kilowatts from an antenna 2,000 feet above average terrain over a transmission path of normal terrain. For the purpose of this section, the distance from a UHF television broadcast station to its theoretical Grade A contour under the above assumptions is 68 miles.

- (a) A television broadcast booster station is authorized to retransmit only the signals of its primary station. It shall not retransmit the signals of any other station nor make independent transmissions: Provided, however, That locally generated signals may be used to excite the booster apparatus for the purpose of conducting tests and measurements essential to the proper installation and maintenance of the apparatus.
- (b) A television broadcast booster station will not be authorized to operate at any location more than 68 miles from its primary station and shall not be operated to produce a field strength greater than 5 millivolts per meter at a height of 30 feet above ground at a distance of more than 68 miles from its primary station.
- (c) The transmissions of a television broadcast booster station shall be intended for direct reception by the general public. Such stations may not be used to establish a point-to-point television relay system.

§ 4.832 Eligibility and licensing requirements.

- (a) A license for a television broadcast booster station will be issued only to the licensee of a television broadcast station operating in the UHF television broadcast band, and solely for the purpose of retransmitting the signals of such television broadcast station.
- (b) An application for a television broadcast booster station shall contain an adequate showing that:
- (1) The proposed booster can be installed and operated so as to provide satisfactory reception without causing harmful interference to existing service, by the application of acceptable techniques.
- (2) That a signal of sufficient magnitude is available from the primary station at the site of the proposed booster.
- (c) No numerical limit is placed upon the number of boosters which may be licensed to a single licensee. A separate application is required for each

booster transmitter. Television broadcast booster stations will not be counted as TV stations in applying the multiple ownership provisions of § 3.636 of this chapter.

§ 4.833 [Reserved]

§ 4.834 Remote control operation.

- (a) A television broadcast booster station may be operated by remote control provided that such operation is conducted in accordance with the conditions set forth in subparagraphs (1) through (4) of this paragraph.
- (1) The transmitter shall be equipped with automatic devices, which, in the absence of a signal from the primary station, will render the transmitter incapable of emitting radio frequency energy.
- (2) The transmitter shall be further equipped with a device, which may be actuated by a coded signal or tone transmitted by the primary station, and which will permit turning the transmitter on and off at will from the primary station. The signal required to be transmitted by the primary station for this purpose shall be of such nature or of duration so short that it will not appreciably degrade normal reception of the primary station.
- (3) As a precaution against loss of control due to failure of the control circuit, the circuit shall be designed so as to require reception of a cue signal from the primary station at intervals of one hour or less and failure to receive the cue signal will automatically place the booster transmitter in an inoperative condition.
- (4) The transmitter and its associated controls shall be so installed and protected as to be inaccessible to unauthorized persons.
- (b) An application for a new television broadcast booster station or for a change in the facilities of an existing station which proposes remote control operation, shall be accompanied by a satisfactory showing as to the manner of compliance with the above conditions. Unless remote control is specifically authorized pursuant to the above requirements, the booster transmitter shall be under the direct supervision of a qualified operator in accordance with § 4.866.

§ 4.835 Power limitations.

- (a) A television broadcast booster station will not be authorized to operate with power in excess of that required to provide an adequate signal over the area intended to be served by the booster. Due consideration should be given to the provisions of § 4.804 which requires the licensee of a television broadcast booster station to correct any condition of interference which results from field strengths in excess of those which could be produced by the primary station at the place where interference occurs.
- (b) In no event will a television broadcast booster station be authorized to operate with an effective radiated power of more than 5 kilowatts peak visual.
- (c) In no event will a television broadcast booster station be authorized to operate at a location, and with an effective radiated power, and antenna height

above average terrain, which would produce a predicted field strength of more than 5 millivolts per meter at any location more than 68 miles from the primary station. The predicted field strength of a television broadcast booster station shall be determined in accordance with the procedures set forth in Section 3.684 of this chapter. If a directive transmitting antenna is to be used to suppress radiation so as to comply with this requirement, the proposed directive pattern shall be supported with adequate engineering data.

(d) No minimum power is specified for television broadcast booster stations.

§ 4.836 Emissions and bandwidth.

- (a) The license of a television broadcast booster station authorizes the transmission of the visual signal by amplitude modulation (A5) and the accompanying aural signal by frequency modulation (F3).
- (b) Standard width television channels will be assigned and the emission of a television broadcast booster station shall be confined to the authorized channel in accordance with the Television Technical Standards contained in Part 3, Subpart E, of this chapter, except as provided in paragraph (c) of this section.
- (c) Spurious emissions on frequencies more than 3 megacycles outside the assigned channel, other than radio frequency harmonics of the visual and aural carriers but including intermodulation products, signals other than those received from the primary station, and radio frequency energy generated within the booster apparatus, shall be attenuated no less than 40 decibels below the peak visual carrier amplitude. Radio frequency harmonics of the visual and aural carriers shall be attenuated no less than 60 decibels for transmitters operating with more than 1 kilowatt power output. For transmitters operating with power output of 1 kilowatt or less, the power of such radio frequency harmonics shall not exceed 1 milliwatt. Greater attenuation of all spurious emissions may be required if interference is caused to any radio service.

§ 4.837 Antenna location.

- (a) The transmitting antenna of a television broadcast booster station shall be located within the Grade A contour of the primary station, as defined in § 4.831.
- (b) An applicant for a new television broadcast booster station or for changes in an existing station shall endeavor to select a site which will provide a line-of-sight transmission path to the area intended to be served and at which there is a suitable signal available from the primary station. The transmitting antenna should be placed above growing vegetation lying in the direction of the area intended to be served to minimize the possibility of signal absorption by foliage.
- (c) Consideration should be given to accessibility of the site at all seasons of the year and to the availability of facilities for the maintenance and operation of the television broadcast booster station.

(d) Consideration should be given to the existence of strong radio frequency fields from other transmitters at the booster site and possibility that such fields may result in the retransmission of signals originating on frequencies other than that of the primary station.

EQUIPMENT

§ 4.850 Equipment and installation.

- (a) An application for a new television broadcast booster station or for changes in the facilities of an existing station shall supply complete technical details of the apparatus to be employed and the overall installation. The functioning of such automatic features or other safeguards as may be incorporated to prevent improper operation shall be fully described. If the apparatus is to be remotely controlled, a detailed description of the control features shall be included.
- (b) The overall characteristics of the complete installation shall be essentially linear so as to accomplish retransmission of the incoming signals of the primary station without significantly altering any electrical characteristics other than the overall amplitude. Intermodulation products which may be generated shall be adequately removed from the transmissions of the booster so as not to constitute a source of potential interference. Provision shall be made in the circuits employed, to prevent the amplifier being driven into a non-linear condition over the full range of signal intensities within which the booster may be called upon to operate, or to cause it to cease radiating should non-linear operation or oscillation of any stage occur.
- (c) The isolation between the input and output circuits of the booster, including the receiving and transmitting antenna systems, shall be at least 20 decibels greater than the maximum overall gain of the booster amplifier.
- (d) The overall response of the amplifier shall not vary by more than 2 decibels over the entire assigned channel: Provided, however, That the amplitude of the aural signal may be decreased by a suitable amount if necessary to minimize intermodulation effects or eliminate interference between the sound and picture signals. The apparatus shall be capable of complying with the requirements of § 4.836(c) with respect to spurious emissions.
- (e) In general, the transmitter shall be mounted on racks and panels or in totally enclosed frames protected as required by Article 810 of the National Electrical Code.
- (f) The installation of a television broadcast booster station shall be made only by, or under the direct supervision of, a qualified electronics engineer and any repairs or adjustments made during or subsequent to the installation, which could result in improper operation, shall be made by or under the direct supervision of such an engineer or an operator holding a valid first or second class radiotelephone operator's license issued by the Commission.
- (g) In cases where the electrical characteristics of the transmitting and receiving antennas of a booster station

are used to provide the required degree of isolation between the input and output circuits, the installation of such antennas shall be sufficiently rugged and protected as to withstand such hazards as may reasonably be expected to be encountered due to their exposure to the elements and the local environment.

(h) Prior to placing a television broadcast booster station in regular operation, the permittee shall perform sufficient measurements of the completed installation to insure compliance with this section. These measurements together with a detailed description of the methods use: in obtaining the measurements shall be submitted with the application for license for the booster station.

(i) Type acceptance of television booster amplifiers may be granted upon request in accordance with the type acceptance procedure set forth in Part 2 of this chapter; provided that measurement data and descriptive information submitted shows that the amplifier is capable of meeting the technical requirements of this subpart. The following measurement data must be supplied:

(1) Radio frequency power output (visual peak power).

(2) Over-all gain of the amplifier vs. frequency throughout the entire channel in which it is designed to operate.

(3) Spurious emissions appearing on frequencies outside the channel in which it is designed to operate, including radio frequency harmonics up to 2,000 megacycles.

§ 4.851 Equipment changes.

- (a) Formal application (FCC Form 343) is required for any of the following changes:
- (1) Replacement of the transmitter as a whole, except replacement with an identical transmitter, or any modification which could result in a change in the electrical characteristics or overall performance of the booster installation.
- (2) A change in the transmitting antenna system, including the direction of radiation, directive pattern, or transmission line.
- (3) An increase in the authorized overall height of the antenna above ground of more than 20 feet or which will result in an overall height above ground of more than 170 feet.
 - (4) A change in the control system.
- (5) Any change in the location of the transmitter except a move within the same building or upon the same tower or pole, and any horizontal change in the antenna location of the transmitting antenna in excess of 500 feet.
- (6) A change of frequency assignment.
- (7) A change of authorized operating power.
- (b) Other equipment changes not specifically referred to above may be made at the discretion of the licensee, provided that the Engineer in Charge of the radio district in which the television broadcast booster station is located and the Commission's Washington, D.C. office, are notified in writing upon completion of such changes, and provided, further, that the changes are appropri-

ately reflected in the next application for renewal of license of the television broadcast booster station.

TECHNICAL OPERATION

§ 4.861 Frequency tolerance.

The visual carrier frequency and the aural center frequency of the television signals transmitted by a television broadcast booster station shall be identical with those of the primary station.

§ 4.862 Frequency monitors and measurements.

The licensee of a television broadcast booster is not required to provide means for measuring the operating frequencies of the booster transmitter.

§ 4.863 Time of operation.

- (a) A television broadcast booster station is not required to adhere to any regular schedule of operation. However, the licensee of a television booster station is expected to provide a dependable service to the extent that such is within its control and to avoid unwarranted interruptions to the service provided.
- (b) If causes beyond the control of the licensee require that a television broadcast booster station remain inoperative for a period in excess of 10 days, the Engineer in Charge of the radio district in which the station is located shall be notified promptly in writing, describing the cause of failure and the steps taken to place the station in operation again, and shall be notified promptly when the operation is resumed.
- (c) Failure of a television broadcast booster station to operate for a period of 30 days or more, except for causes beyond the control of the licensee, shall be deemed evidence of discontinuance of operation and the license of the station will be automatically forfeited.
- (d) A television broadcast booster station shall not be operated during periods when the primary station is not operating.

§ 4.864 Station inspection.

The licensee of a television broadcast booster station shall make the station and the records required to be kept available for inspection upon request by representatives of the Commission.

§ 4.865 Posting of station and operators licenses.

(a) The station license and any other instrument of authorization or individual order concerning the construction of the equipment or manner of operation shall be posted at the place where the transmitter is located, so that all of the terms thereof are visible: Provided, however, That if the booster transmitter is operated by remote control and is located more than 20 miles from the primary station, the station license and other instruments of authorization shall be posted in the above-described manner at the transmitter of the primary station.

(b) The call letters and assigned channel of the primary station shall be displayed at the booster site on the structure supporting the transmitting antenna so as to be visible to a person standing on the ground at the booster transmitter site. The display shall be prepared so as to withstand normal weathering for a reasonable period of time and shall be maintained in a legible condition by the licensee.

(c) The original of each station operator license shall be posted at the place where he is on duty: Provided, however, That if the original license of a station operator is posted at another radio transmitting station in accordance with the rules governing that class of station and is there available for inspection by a representative of the Commission, a verification card (Form 758-F) is acceptable in lieu of the posting of such license: Provided further, however, That if the operator in charge holds a restricted radiotelephone operator permit of the card form (as distinguished from the diploma form), he shall not post that permit but shall keep it in his personal possession.

§ 4.866 Operator requirements.

- (a) The actual operation of the transmitting apparatus at a television broadcast booster station shall be carried on only by a person holding a valid first or second class radio-telephone operators license: Provided, however, That where the booster transmitter is remotely controlled by the transmission of coded signals from the primary station, an unlicensed person may turn the power supplied to the booster by the power mains, on and off upon instructions from the operator on duty at the primary station.
- (b) The licensed operator on duty and in charge of a television broadcast booster station may, at the discretion of the licensee, be employed for other duties or for the operation of another station or stations in accordance with the class of license which he holds and the rules and regulations governing such stations. However, such duties shall in no wise interfere with the operation of the television broadcast booster station.

§ 4.867 Marking and lighting of antenna structures.

The marking and lighting of antenna structures employed at a television broadcast booster station, where required, will be specified in the authorization issued by the Commission. Part 17 of this chapter sets forth the conditions under which such marking and lighting will be required and the responsibility of the licensee with regard thereto.

§ 4.868 Additional orders.

In case the rules contained in this part do not cover all phases of operation or experimentation with respect to external effects, the Commission may make supplemental or additional orders, in each case as may be deemed necessary.

§ 4.869 Copies of rules.

The licensee of a television broadcast booster station shall have current copies of Part 3 and Part 4, and in cases where antenna marking is required, Part 17 of this chapter, available for use by the operator in charge, and is expected to be familiar with those rules relating to the operation of a television broadcast booster station. Copies of the Commission's rules may be obtained from the Superintendent of Documents, Government Printing Office, Washington 25, D.C., at nominal cost.

OPERATION

§ 4.881 Station records.

- (a) The licensee of a television broadcast booster station shall maintain an operating log showing the following:
 - (1) Hours of operation.
- (2) A record of all repairs, adjustments, maintenance, tests, and equipment changes, showing the date of such events, the name and qualifications of the person performing the operation, and a brief description of the matter logged.
- (b) Where an antenna structure is required to be illuminated, see § 17.38 of this chapter.
- (c) The operating log shall be made available upon request to any authorized representative of the Commission.
- (d) Station records shall be retained for a period of two years.

§ 4.882 [Reserved]

§ 4.883 Station identification.

- (a) Television broadcast booster stations will not be assigned individual call signs. Station identification will be accomplished by the retransmission of the call sign of the primary station.
- (b) The Commission may request the operator on duty at the primary station to interrupt the transmissions of the booster station for short intervals of time in order to facilitate identification of a particular booster.

§ 4.884 Rebroadcasts.

- (a) The term "rebroadcast" means the reception by radio of the programs or other signals of a radio or television station and the simultaneous or subsequent retransmission of such programs or signals for direct reception by the general public.
- (b) A television broadcast booster station is authorized to rebroadcast only the signals of the primary station with which it is associated. In cases where the booster is located at a site where the signals of other television broadcast stations or other classes of stations may be received, care shall be exercised in the installation to insure that such other signals are not retransmitted: *Provided, however*, That occasional inadvertent retransmission of the signals of other cochannel TV stations caused by abnormal propagation conditions, will not be considered to be non-compliance.

[F.R. Doc. 60-5188; Filed, June 7, 1960; 8:50 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

['7 CFR Part 1018]

[Docket No. AO-286-A2]

MILK IN SOUTHEASTERN FLORIDA MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Fort Lauderdale, Florida, on October 5 and 6, 1959, pursuant to notice thereof issued on September 21, 1959 (24 F.R. 7703).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on March 15, 1960 (25 F.R. 2263) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing relate to:

- 1. Definition of producer;
- 2. Price for Class I milk:
- 3. Classification and price for milk dumped;
- Classification of diverted and transferred milk, shrinkage, and inventories;
 - 5. Base-excess plan; and
- 6. Miscellaneous and conforming changes.
- (a) Definition of Chicago butter price;
- (b) Establishment of milk weights or measurements;
 - (c) Advance payments; and
- (d) Adjustment of overdue accounts. Findings and conclusions. The findings and conclusions relative to the base-excess plan were dealt with in a decision issued by the Acting Secretary on February 12, 1960 (25 F.R. 1412). The remaining issues were reserved for a later decision pending further study of the hearing record. The following findings and conclusions, on issues 1, 2, 3, 4 and 6 are based on evidence presented at the hearing and the record thereof.
- 1. Definition of producer. The definition of producer should be changed to allow a producer's milk to be diverted temporarily to nonpool plants. The definition should exclude persons who use the same farm production facilities to produce milk for other markets unless such deliveries to other markets are covered by the diversion provision.

A diversion provision in the order was proposed by the Independent Dairy Farmer's Association, Inc. Members of the association produce 90 percent or

more of the regular supply for the market. The association performs the services of allocating member milk among handlers according to their needs, obtaining needed supplemental supplies, and arranging for disposal of milk in excess of handler's needs.

During the years of 1958 and 1959, the problem of disposing of milk in excess of handler's immediate needs has increased. The increase in production in relation to sales is discussed in detail in other parts of this decision. Variations in fluid sales, particularly through stores, has become increasingly important in causing short-term changes in the supply-sales relationship.

It is concluded that a diversion provision will aid the producer's association in finding outlets for temporary surpluses which are necessarily associated with production of a reliable and adequate supply. It will also provide a means of more equitable sharing of the burden of such surplus on the basis of marketwide pooling. Such a provision will enable movement of a producers milk directly from his farm to a nonpool plant. Inasmuch as the association does not have a plant, the diversion provision will extend the association's ability to move milk to plants where it may be used without depending on the services of handlers' plants. The diversion operation will also be more economical in handling of the milk than receiving it at a pool plant prior to transfer to a nonpool plant. A cooperative association which diverts milk for its account would be the responsible handler for such milk.

Handlers requested that the diversion privilege should also be available to them. Inasmuch as the Independent Dairy Farmer's Association regularly performs the function of allocating member milk to various plants according to market needs, and the membership includes all but a few producers, it may be expected that relatively few diversions would be made by plant operators. Nevertheless, handlers should be permitted to divert milk of nonmembers, in order to provide for economical disposition for such milk when it is not needed at the plant where regularly received.

In order to assure that diverted producers are genuinely associated with the market, the requirement in the producer definition for delivery to a pool plant on eight days in the current or previous month should be retained.

The testimony with respect to diverting milk shows a need to provide appropriate classification of the milk as discussed under another part of the findings and conclusions.

The producer association also requested that any person who produces milk for another market, except as would be provided under a diversion arrangement, should not qualify as a producer for this market. If a dairy farmer sells part of his production in this market and part in another market, he may arrange

so that his deliveries to the other market closely approximate the amount of his base in that market. For this base milk he may be paid a price in the other market close to the level of this market's Class I price. At the same time, such a dairy farmer, if he is qualified as a producer under the order for the Southeastern Florida market, will share in the marketwide utilization of milk as reflected in his deliveries to a pool plant. Such a farmer's deliveries to this market would represent merely the variable excess of his production over the needs of the other market. As a result, the marketwide pool of this market would be burdened with the surplus or reserve of other markets without a share of the associated fluid sales in such other markets.

Furthermore, in the southern Florida area, plants in this market and surrounding markets are primarily engaged in fluid milk handling for route sales, and usually buy only enough of locally produced milk to cover fluid sales. Thus the shifting of deliveries to other markets in the manner described tends to increase the burden upon this market to obtain supplemental supplies.

It is concluded that the order should limit the conditions under which a dairy farmer may have producer status and yet deliver part of the production from the same production facilities to another market. The term production facilities would include the milking barns and premises. Such partial shifting of deliveries should be only through diversion by a handler (including a cooperative association). This would not preclude any farmer from shifting his entire production to another market. Furthermore, since such a limitation could be circumvented by a producer by assigning part of the herd to a member of his family as another producer on the same farm, it is necessary that the definition of producer exclude persons who produce milk using the same farm production facilities which are used by him or another person to produce milk for another market. It is not practical, however, to place a limitation, as requested at the hearing, on producer qualification with respect to shipments from separate farms to this and another market. To give any producer now delivering part of his production to other markets an opportunity to change his business arrangements, this limitation on producer status should become effective January 1. 1961.

2. Class I Price. The price for Class I milk should be subject to adjustment based upon the relationship of producer milk supplies to Class I disposition by pool plants. The adjusted Class I price should not exceed a value for manufacturing milk by more than \$4.00 nor should it be less than such manufacturing price plus \$2.75.

Since the order prices were made effective September 1, 1957, there has

been considerable change in the supplydemand situation in the market, although the price for Class I milk has remained constant at \$7.00 per hundredweight. During the early period under the order, the supply of producer milk was very close to the quantity of milk needed for Class I sales and in some months there were shortages which were met by shipments from other markets. Since that time, both supplies of producer milk and Class I sales have increased. Throughout 1959, however, the supply of producer milk has been at a higher level in relation to Class I sales than in previous periods. Prior to that time, the percentage of producer milk assigned to Class I was never less than 91 percent and in most months exceeded 95 percent. During 1959, the percentage of producer milk assigned to Class I was less than 90 percent in 8 of the twelve The lowest monthly utilizamonths. tion was 82.3 percent in Class I in May. Official notice is taken of data on milk receipts and utilization published by the market administrator.

During the year 1959, there have been large quantities of distress skim milk which have been dumped. No plant in or near the market has equipment for manufacturing large quantities of excess skim milk into a storable form.

A further factor in the supply situation is the ability of the market to depend on supplemental supplies from other fluid markets which have ample reserve supplies. The relationship of the price level in this market to price levels in markets with more ample supplies has an important bearing on this matter. In recent years the Southeastern Florida market has obtained supplemental milk from Bristol, Tennessee (Order No. 23), Chattanooga, Tennessee (Order No. 100), Chicago, Illinois (Order No. 41), and Springfield, Missouri (Order No. 21). Computations using a hauling rate of 11/2 cents for each 10 miles (and adjusting for butterfat test) would result in an average cost of milk in 1959 delivered to Miami of \$6.77 from Bristol, Tennessee, \$6.35 from Chattanooga, \$6.13 from Chicago, and \$6.37 from Springfield, Missouri. These computations make no allowance for special handling charges or other mark-ups. Although the price differences between these markets and the Southeastern Florida market tend to narrow in the months when this market is shortest of milk, the type of computation referred to for the months of December 1958 through February 1959 for milk from the Chicago market would give a price 83 cents less than the price in this market.

In the case of milk from Bristol, Tennessee in these months the computed price difference was 9 cents per hundredweight under this market, and similarly for Chattanooga, 62 cents; and for Springfield, Missouri, 57 cents. In view of the ability of this market to depend on other markets for supplemental supplies, this market may be adequately supplied although only a small amount of reserve milk is locally produced.

The changes in the supply-demand situation in the market show a definite need for a Class I pricing formula which is responsive to such changes in market conditions. Formula calculations based on the cost of feed and a local industrial wage index, which have been in the order provisions, although not effective, have not provided a suitable basis for a Class I milk price formula. The supplydemand adjustment stated in the order has not been made effective, and would not provide an adequate reflection of market conditions if it were effective. supply-demand adjustment more closely related to experience in the market under order regulation should be used.

The Independent Dairy Farmer's Association, Inc., proposed that the Class I price be subject to a supply-demand adjustment which could adjust the price as much as 20 cents above or below the present price of \$7.00 per hundredweight. The association recommended the continuance of the present order relationship to the manufacturing milk value described in \$ 1018.50(b), and the deletion of the present ineffective order provisions under which computations are made of supply-demand figures and feed-wage price formula.

The proposed supply-demand adjustment would be based on milk utilization figures for the four preceding months. As an indicator of demand, Class I disposition in the marketing area by pool plants and by nonpool plants including that of producer-handlers' would be used. On the supply side this computation would include milk received from producers and milk produced by producer-handlers. Class I disposition outside the marketing area by pool plants would not be included because of possible erratic variations. The normal utilization percentages in such proposed supply-demand adjustment would range from 112 percent to 117 percent of supply as a percent of sales. The actual percentage of utilization on this basis was calculated to range from 99 percent to 112 percent for price adjustments applicable in the period from October 1958 through September 1959. The re-sulting computed adjustments ranged from plus 52 cents to minus 20 cents, but actual adjustments in either direction would be limited under the proposal to 20 cents.

The foregoing proposal includes production and sales of producer-handlers. This milk is not priced under the order and accordingly is not subject to the same kind of supply-demand considerations as producer milk. Class I sales by pool plants outside the marketing area should be included as part of the demand for producer milk. The omission of these sales in the proposal by producers was for the purpose of avoiding the effect of variations in outside sales, such as might be caused by a handler transferring his outside sales to a nonpool plant which he operates. The latter situation, however, would usually represent an actual change in the supply-demand situation in this market, whether the handler

did or did not shift corresponding volume of production along with the sales.

Utilization in the market during a recent four-month period, with somewhat different methods of calculation than proposed by producers, would provide a suitable basis for a price adjustment reflecting particularly the situation in the most recent of the four months, as well as a progressively greater effect to the extent that a particular level of the content of the four month one month during the four-month period.

The relationship of supply to demand may be expressed for this purpose by calculating the percentage that producer milk is of the quantity of Class I disposition. The supply-demand adjustment adopted herein would combine the receipts and disposition of each two successive months, and would use three such two-month utilization percentages. A price adjustment for the month of January, for example, would be based on the three utilization percentages for the preceding August-September, September-October and October-November periods. These months would be the latest for which data would be available so that the supply-demand price adjustment could be announced before the month in which it is effective.

The amount of price adjustment would depend on the difference of each twomonth utilization percentage from a corresponding standard established for such two-month period. These differences would be called deviation percentages. The three successive deviation percentages to be used in the price adjustment for each month, would be applied in a manner so that the more recent of the deviations would be given more importance than the earlier of the three deviation percentages. This would be done by eliminating any deviation which is in the opposite direction (above or below the corresponding standard) from a more recent deviation, and reducing any deviation figure to the extent that it exceeds a more recent deviation. The sum of the remaining deviation percentages would be the basis for price adjustment. The price adjustment would be upward or downward depending on whether the sum of the deviations reflects utilization below or above, respectively, the standard utilization percentages.

The rate of price adjustment for each deviation percentage should be 11/2 cents rather than the 2 cent rate in the recommended decision. This change is made in light of producer exceptions which protested that the standard utilization percentages in the recommended decision would yield Class I prices lower than could be justified. Standard utilization percentages recommended by the producer association would have resulted, however, in price adjustments too large on the plus side in some past periods, particularly 1958. It is concluded elsewhere in this decision that the utilization percentages in the recommended decision represent a better seasonal pattern and annual level for the kind of price adjustment needed in this market than do the percentages recommended by the producers. In view of producer exceptions and other considerations referred to, it is concluded here that the lesser rate of price adjustment on both the upper and lower side of the current price level will provide adequate response to supply and demand conditions in the market.

Fractional amounts resulting from the one-and-one-half-cent rate should be rounded to the next largest figure (plus or minus).

The standard utilization percentages specified herein for use in the supplydemand adjustment have been developed on the basis of the experience with the changes in supply and demand since the order was established. As evidenced in the record and by the market data of which official notice was taken in the recommended decision, a more than an adequate supply of milk has developed at the price level of \$7.00 per hundredweight which has been the price throughout the effective period of the order. In accordance with the act under which the order is issued, the level of price should reflect the market supply and demand condition. For this reason the level of price should be reduced when the supply is as large in relation to sales as it has been in recent periods of oversupply. The standard utilization percentages therefore represent a means of arriving at such price adjustment.

The producers in their exceptions complained that the standard utilization percentages in the recommended decision did not represent an optimum relation of supply to sales. In this connection, it is pointed out, that the standard utilization percentages merely serve as a basis for arriving at appropriate price adjustments in view of market experience. In this light, it is not necessary that the standard percentages represent the most desirable utilization to be achieved by the market.

There are definite seasonal changes in the level of Class I disposition. The seasonal increase may begin in September and continue to increase to the highest level in January or February. Production has generally increased seasonally in the same manner. The decline in Class · I disposition during spring months tends to be more rapid than changes in production. As a result, during spring months supplies become more ample in relation to Class I sales. Such seasonal changes in the utilization of producer milk are sufficiently definite to be recognized to some degree in the mechanism of a supply-demand adjustment, although the two years of experience under the order does not establish precisely a normal seasonal pattern. Accordingly, a given level of utilization in the spring months should correspond to a higher adjusted price than for the same level of utilization in the late summer and fall months.

The standard utilization percentages to be used in the supply-demand adjustment would be as follows:

Month for which price applies	Months for which utiliza- tion is computed	Standard utiliza- tion per- centage
JanuaryFebruary	October-November November-December December-January	100 103 105
March April May Lune	January-February February-March March-April	105 108 112
June July August September	April-May May-June June-July	114 114 112
October November	July-August August-September September-October	107 104 106

At the level of utilization which has existed since October 1957, the supply-demand formula would have resulted in adjustments ranging from plus 30 cents per hundredweight in the month of November 1958 to minus 53 cents in February 1960. The average adjustment for the year 1958 would have been plus 16 cents and for 1959 minus 15 cents.

The tie-in of the Class I price with the value of milk for manufacturing uses will provide an adequate limit to the operation of the supply-demand adjustment. This tie-in based on a relationship to prices paid by Mid-West manufacturing plants and prices of nonfat dry milk and butter, requires that the Class I price be not less than \$3.25 over the manufacturing milk formula value. and be not more than \$3.75 over such formula value. Although this tie-in has not affected the Class I price in any month since the inception of the order, it is apparent that the limits of this tiein relationship would limit the action of the supply-demand adjustment to a narrow range. In view of the need to provide a pricing mechanism more responsive to supply and demand conditions, the limits of the relationship to the manufacturing milk value should be widened. The lower limit should be established at \$2.75 over the manufacturing milk value and the upper limit at \$4.00 over such value.

3. Dumped milk. Skim milk dumped should be classified and priced as Class II milk.

Production of milk for this market since the latter part of 1958 has increased faster than Class I disposition. An excess of supply over Class I sales has resulted. Although there is generally use for the butterfat of such excess milk in fluid cream, ice cream, or storage cream, the outlets for the skim milk portion are very restricted by lack of manufacturing facilities. As a result, during the January-July period of 1959, handlers returned large quantities of skim milk to producers through the producer's association for dumping.

A proposal made by representatives of producers, intended to facilitate the handling of skim milk in such circumstances, would classify the dumped skim milk as Class II milk, but would allow the handler a credit for such skim milk at the rate of the Class II price for 4.0 percent milk less \$3.00. This difference would have ranged between \$1.39 and \$1.41 in

the January-July period of 1959. The figure of \$3.00 is equivalent to the value of four pounds of butterfat arrived at by applying the producer butterfat differential of 7.5 cents provided under the order. Hence, there would be no value attached to the skim milk.

It is pointed out in connection with the prior findings on Class I prices that in the early period under the order, the supply of milk from local sources was very close to the amount of milk needed for fluid sales. When supplemental milk was needed it was obtained from distant markets. More recently, the local supply of milk has increased to the point that skim milk is in excess of the needs for the fluid market.

In a fluid market the unpredictable variations in supplies and fluid sales can be met either out of a reserve produced locally or by obtaining supplemental milk from other markets. Although the change in the supply situation since the order became effective might be interpreted as the development of a local reserve supply, physical facilities for handling such a reserve have not been provided. Under the circumstances it may be just as feasible for the market and in the interest of consumers to maintain a pricing arrangement which will promote a supply of milk which is geared to the facilities available for the economic disposal thereof. Appropriate adjustments of the Class I price have been considered in this decision to encourage a proper balance of supplies in relation to the requirements for the fluid market.

The primary purpose of a milk marketing order is to provide for the orderly marketing of milk produced for sale in a regulated marketing area. This is achieved chiefly by the use of the classified price plan and the pooling mechanisms provided in the order. It is presumed that the Class prices established will be at levels which will encourage the utilization of milk in its most economical outlets. A pricing system which assigns no value for skim milk when it is dumped. while at the same time establishing a significantly higher value for all other uses of skim milk, will obviously not encourage the disposition of skim milk in its most economical uses. On the contrary, such provision could only encourage the wastage of skim milk.

The problem here is to find a pricing level for skim milk in Class II which will accommodate its utilization in some form of useful product. The evidence, however, did not address itself to this matter and, consequently, the basis is not provided in this record for establishing a value for Class II skim milk different from that which is presently provided.

In view of the above considerations it is concluded that dumped skim milk should be classified and priced as Class II milk.

4. Classification: Milk transferred or diverted to nonpool plants, shrinkage, and inventories.

(a) Transfers and diversions. The discussion in previous findings and con-

clusions with respect to the producer definition, particularly the diversion of milk from producers' farms to nonpool plants, shows the need to establish rules of classification for diverted milk.

Most of the nonpool plants in Florida to which producer milk may be diverted are in the fluid milk distribution business. These plants depend very largely on supplies of milk received directly from dary farmers, and usually have only a relatively small margin of such receipts over their volume of fluid sales.

If a handler in this market diverts milk to any nonpool plant which has more Class I disposition than milk received from the farmers primarily associated with the nonpool plant, the diverted milk should be considered as part of the supply upon which the nonpool plant depends to cover Class I disposition. Accordingly, after assignment of Class I disposition of the nonpool plant to dairy farmers which supply approved milk to the nonpool plant, any remaining Class I disposition should be assigned to producer milk diverted to the nonpool plant. with provision, however, for similar classification for milk originating at plants under other Federal orders. If the nonpool plant has received milk classified and priced as Class I milk under other orders, the assignment of Class I disposition to diverted milk should be pro rata with the milk which has been classified and priced as Class I milk under the other Federal orders.

In this connection, a proposal was made by producers that the classification of producer milk should not be restricted to Class I when the diversion is to a plant more than 350 miles from Boca Raton, Florida. It was suggested that the mileage limitation be extended to 900 miles so that milk could be diverted to Chattanooga, Tennessee, for surplus disposition. It was claimed in this connection that the plant of the Chattanooga Area Milk Producer's Association is the nearest plant which could regularly accept such diversions for manufacturing purposes.

For the purpose of effective administration of the order, some limitations must be set on the requirements upon the market administrator to determine final disposition of producer milk in other than Class I use. The mileage figure referred to is such a limitation. In this case the limit may be extended to 500 miles from Boca Raton and be in accordance with administrative feasibility. In the case of movements of milk beyond such distance, if the nonpool plant is regulated under another Federal order, reliance could be placed on the verification procedures under the other order. Such would be the case for shipments to the Chattanooga association plant as long as that plant is fully regulated under the Chattanooga Federal order.

The preceding rules for classification of producer milk diverted to nonpool plants are necessary to assure that producers for this market will share properly in the utilization at the nonpool plants. The terminology "diversion of producer milk by a pool plant operator to a nonpool plant" is applied here particularly to movements of milk directly

from a producer's farm to a nonpool plant. In the case of producer milk transferred as shipments from pool plants to nonpool plants, similar considerations with respect to proper classification necessarily apply. The evidence with respect to shifting of milk supplies between pool plants and nonpool plants, and the possible result that this market may carry the surplus and reserve of other markets, bears on the proper classification of transfers from pool plants to nonpool plants. Accordingly, the same classification rules should apply to such transfers as would apply to diverted milk.

(b) Shrinkage. The shrinkage provision should be revised to provide that shrinkage shall be prorated only to receipts in the form of milk or skim milk.

Under current order provisions, the total shrinkage is prorated to producer milk and other source milk without distinction as to whether the other source milk is a fluid receipt or represents the use of nonfat dry milk, or some other concentrated product. Thus, pool plants with manufacturing operations using largely other source milk received in concentrated forms may prorate shrinkage over the entire fluid equivalent of products in this operation as well as fluid receipts. Under the definition of Class II milk, skim milk and butterfat used in the manufacture of milk products are accounted for on a used-to-produce basis. Any processing loss is included in the amount of skim milk and butterfat reported as used.

Other source milk received by pool plants in forms other than milk or skim milk is very largely (if not entirely) used in a manner which results in the used-to-produce accounting. It is improper, therefore, that proration of shrinkage should apply to other source milk receipts in forms other than milk or skim milk.

Producers also proposed that the allowable amount of shrinkage of producer milk classified as Class II milk should be reduced from 2 percent to $1\frac{1}{2}$ percent. The evidence on such a change in the shrinkage allowance is not sufficiently clear to arrive at a conclusion on this record. Some handler testimony claimed that the amount of actual shrinkage experienced generally was in the neighborhood of 2 percent. It is not clear from the record from what type of calculation or what data were used by the producer representative in arriving at the market average figure of 1.2 percent.

(c) Inventories. A reclassification charge should apply to other source milk in inventories allocated to Class I milk.

The order now provides in § 1018.70(c) for a reclassification charge on producer milk in inventories. This charge applies when under the allocation procedure pursuant to § 1018.45 any part of beginning inventory is assigned to Class I milk, limited however, to the amount of producer milk assigned to Class II milk in the preceding month. The rate of reclassification charge is the difference between the Class II price of the preceding month (since closing inventory is classified as Class II milk) and the Class I price of the current month.

A proposal made by producers was intended to apply a further reclassification

charge when beginning inventory allocated to Class I milk is at least in part from unregulated sources. Such a reclassification charge would be at the rate of compensatory payments applied to current receipts of other source milk classified as Class I milk.

Compensatory payments do not apply to other source milk which has been priced as Class I milk under another Federal order, but may apply when milk is received from unregulated sources or from another Federal order market where it is not priced as Class I milk. Similarly, in case of inventory reclassification, a compensatory payment should not apply if, after reclassification of producer milk in inventory, the remaining amount of beginning inventory assigned to Class I may have come from supplies received in the previous month which were classified as Class I under another Federal order. Accordingly, after arriving at a reclassification charge on producer milk in inventory, the remaining amount of beginning inventory which has been allocated to Class I should be reduced to the extent that receipts during the prior month from other Federal markets were allocated to Class II milk although classified as Class I milk under the other orders. The then remaining amount of reclassified inventory would be subject to compensatory payment.

Inasmuch as the rate of compensatory payment differs according to whether the other source milk originates inside or outside the State of Florida, it is necessary to provide separate steps in allocation procedure under § 1018.45 for the assignment of other source milk from inside and outside the state. The procedure of assigning milk from the nearest source (inside the state) to Class I milk first is followed in this connection.

6. Miscellaneous and conforming changes. (a) The definition of Chicago butter price should be changed to mean the average price for the month instead of for the period from the 26th of the preceding month through the 25th day of the current month. This will conform with the general practice in other Federal milk orders and will provide an appropriate average butter price for establishing prices under this order.

(b) The producer's association proposed that the order contain a provision which would require handlers to use approved measuring devices in determining the quantity of milk received at a handler's plant. This proposal was made because of inaccuracies discovered in the measurements of milk by flow meters at plants of two handlers. Tests made by the Weights and Measure Division of the Florida State Department of Agriculture showed errors of as much as 2 percent in the milk measured by these flow meters,

The assurance of accurate measurement of milk received from producers is necessary to make effective the minimum price provisions of the order and to provide equity among handlers as to the cost of milk.

The responsibility for the routine weighing and testing of producers' milk deliveries may be undertaken by either handlers, or producers, or both. For producers who are not members of a cooperative association, the market administrator is responsible for checking the accuracy of the weights and tests of their deliveries and furnishing them with the market information. Four cents per hundredweight or such lesser amount as the Secretary may prescribe, is deducted from the payments due such producers and is paid to the market administrator to cover the cost of such checking. If a cooperative association is performing these services for their members, handlers make such deductions as are authorized by producers and pay the money so deducted to the cooperative association performing such services.

The verification of the quantities of milk receipts reported by each handler is one of the duties of the market administrator, particularly pursuant to § 1018.22(h). In performance of such duty, the market administrator may rely upon approval of weighing and measuring devices by local or state government agencies if such approval is based upon a regular inspection. If a scale or other device is shown by such agency to be inaccurate, or if the device is not subject to such regular inspection, this may be a basis for the market administrator to disregard measurements made by such device. The market administrator also may check the accuracy of scales or other measuring devices by whatever physical testing procedure is necessary.

In view of the above stated considerations it is concluded that the provisions of the order are sufficient to deal with the type of problem raised.

(c) Advance payments. Advance payments should be made to producers twice a month.

All of the handlers in the market are currently paying the milk producers' association two advance payments each month. For milk delivered during the first 15 days of the month, handlers make a payment on the 18th and for milk delivered during the last half, on the 3d of the following month. These payments are for a partial value of the milk the handlers have already received. Such payments are in advance of the final settlement, which is due on the 13th of the following month for payments to the cooperative association and 15th of the following month for individual producers.

The order now provides for advance payment on the last day of the month for milk received during the first 15 days at the rate equal to the Class II price for the preceding month. The order provisions should be revised as proposed by the producer's association to conform more nearly with market practices and thus to ameliorate the burden of financing production by putting it on as current a basis as possible. Advance payment should be made by handlers to cooperative associations on the 18th of the month for milk received during the first 15 days of the month, and similar payments to individual producers who are not members of an association should be made on the 20th. Handlers should make an advance payment on the 3d of the following month to cooperative as-

sociations for milk received during the last half of the month, and on the 5th of the following month to individual producers. If such date of payment falls on a day which is not a day of business, the requirement would be delayed to the next regular business day. The rate of payment should be not less than the uniform base price for the preceding month less 20 percent. Payment at this rate will reduce the possibility of an overpayment at the time advance payments to producers are made. Any balance should be paid by the handler on the date for final payment as now specified in the order.

(d) The order should be amended to provide for the charging of interest at the rate of one-half of one percent per month or any portion thereof on overdue obligations to the producer-settlement fund. Prompt payment to the producer-settlement fund is essential to the operation of the marketwide pool. Charging interest at the above rate will encourage handlers to make payments to such fund within the time specified.

The requirement as to date of payment shall be considered to have been met in the case of payments made by mail if the postmark is not later than the required payment date.

Producers also proposed that interest be charged handlers on any payments due producers which are not remitted by the date specified in the order. The evidence does not show that a serious problem exists in this regard and accordingly, the proposal is denied.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the

minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Southeastern Florida Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Southeastern Florida Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of March 1960 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Southeastern Florida marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D.C., this 2d day of June 1960.

CLARENCE L. MILLER, Assistant Secretary.

Order ' Amending the Order Regulating the Handling of Milk in the Southeastern Florida Marketing Area

Sec. 1018.0 Findings and Determinations.

¹This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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1018.3 1018.4	Department. Person.
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1018. 6 1018. 7	Southeastern Florida marketing area. Producer.
1018.8	Producer-handler.
1018.9	Handler.
1018.10	Route.
1018.11	Pool plant.
1018.12	Nonpool plant.
1018.13 1018.14	Producer milk. Other source milk.
1018.15	Cream.
1018.16	Chicago butter price.
1018.17	Chicago powder price.
1018.18	Base milk.
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1010.00	MARKET ADMINISTRATOR
1018.20 1018.21	Designation. Powers.
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R.E	PORTS, RECORDS, AND FACILITIES
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1018.84	tlement fund.
1018.84	Adjustment of accounts. Marketing services.
1018.86	Expense of administration.
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	Base Rating
1018.90	Computation of daily base for each
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1018.92	Announcement of established bases.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

1018.100 Effective time. Suspension or termination. 1018.101 1018.102 Continuing obligations. 1018.103 Liquidation.

MISCELLANEOUS PROVISIONS

1018.110 Agents. 1018.111 Separability of provisions.

AUTHORITY: §§ 1018.0 to 1018.111 issued under secs. 1-19, 49 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1018.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southeastern Florida marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended. and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act:

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds. and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;
(3) The said order as hereby amended,

regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. therefore ordered, that on and after the effective date hereof, the handling of milk in the Southeastern Florida marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS

§ 1018.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1018.2 Secretary.

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the said Secretary of Agriculture.

§ 1018.3 Department.

"Department" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this part.

§ 1018.4 Person.

"Person" means any individual, partnership, corporation, association or any other business unit.

§ 1018.5 Cooperative association.

"Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association: (a) To be qualified under the provisions of the act of Congress of February 19, 1922, as amended, known as the "Capper-Volstead Act"; (b) to have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members; and (c) to have its entire activities under the control of its members.

§ 1018.6 Southeastern Florida marketing area.

"Southeastern Florida marketing area" hereinafter called the "marketing area" means all territory included within the counties of Dade, Broward, Monroe, and Palm Beach, all in the State of Florida. All government reservations and incorporated municipalities within this territory shall be considered part of the marketing area as herein defined.

l018.7 Producer.

'Producer" means any person, except a producer-handler, who produces milk (as described in § 1018.63) in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable to agencies of the United States Government located in the marketing area for fluid consumption), which milk is received at pool plant(s) on eight or more days during the month, or a person who was a producer during the preceding month from whom milk was received at pool plant(s) on eight or more days: Provided, That after December 31, 1960 the definition of "producer" shall not mean any person who during the month produces milk on, in, or by the use of the same milking barns or premises from which milk is delivered to a nonpool plant except milk diverted to such nonpool plant by a handler pursuant to § 1018.13.

§ 1018.8 Producer-handler.

"Producer-handler" means any person who, during the month: (a) produces milk; (b) distributes Class I milk on routes in the marketing area; and (c) receives no milk except from his own dairy farm, and receives no products designated as Class I milk pursuant to § 1018.41(a) from pool plants or other sources.

§ 1018.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants:

(b) A producer-handler;

(c) Any person in his capacity as the operator of a nonpool plant from which Class I milk is disposed of in the marketing area on routes:

(d) Any person in his capacity as the operator of a plant from which milk in the form of products designated as Class I milk pursuant to § 1018.41(a) is shipped to pool plants, and

(e) A cooperative association with respect to milk diverted to a nonpool plant

pursuant to § 1018.7.

§ 1018.10 Route.

"Route" means any delivery to retail or wholesale outlets (including delivery by a vendor, or a sale from or through a plant store, or by vending machine) of any product in a form designated as Class I milk pursuant to § 1018.41(a), but does not include delivery to a milk receiving or processing plant.

§ 1018.11 Pool plant.

"Pool plant" means a plant described under paragraphs (a) or (b) of this section which is not a plant operated by a dairy farmer in his capacity as a producer-handler, is not determined to be a nonpool plant pursuant § 1018.61, and is not a facility described in paragraph (c) of this section:

(a) A plant at which the total Class I milk during the month is equal to not less than 50 percent of the receipts at the plant during the month of milk from dairy farmers who meet the inspection requirements pursuant to § 1018.7 and other receipts in the form of milk products designated as Class I milk pursuant to § 1018.41(a) and from which an amount of Class I milk equal to not less than 20 percent of such receipts is disposed of during the month in the marketing area on routes;

(b) A plant from which, during the month, a volume of milk and skim milk equal to at least the required percentage (specified herein) of the volume of milk received thereat from dairy farmers who meet the inspection requirements pursuant to § 1018.7 is shipped to plants which are pool plants pursuant to paragraph (a) of this section, such required percentages being 50 percent in each of the months of December through March. and 40 percent in other months; and

(c) Pool plant as defined in this section shall not be deemed to include any building, premises, facilities, the primary function of which is to hold or store bottled milk or milk products in finished form, nor shall it include any part of a plant in which the operations are entirely separated (by wall or other partition) from the handling of producer milk.

§ 1018.12 Nonpool plant.

'Nonpool plant" means any milk receiving or processing plant other than a pool plant.

§ 1018.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk received at pool plants directly from producers and milk from producers diverted by a handler to a nonpool plant for his account: Provided, That milk so diverted shall be deemed to be received by the diverting handler at the location (except in computing the days of receipt at pool plants pursuant to § 1018.7) of the pool plant from which diverted.

§ 1018.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in a form of products designated as Class I milk pursuant to § 1018.41(a) except (1) receipts from pool plants, (2) inventory at the beginning of the month or accounting period, or (3) producer milk;

(b) Milk products in any form other than those designated as Class I milk pursuant to § 1018.41(a) received from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 1018.15 Cream.

"Cream" means the product obtained by the separation of skim milk from whole milk such that the butterfat content of the remaining product exceeds 10 percent, and mixtures of such products with milk and skim milk such that the average butterfat content exceeds 10 percent.

§ 1018.16 Chicago butter price.

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported by the Department for the month.

§ 1018.17 Chicago powder price.

"Chicago powder price" means the carlot price per pound of nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published by the Department for the period from the 26th day of the immediately preceding month through the 25th day of the current month.

§ 1018.18 Base milk.

"Base milk" means producer milk received by a handler from a producer which is not in excess of such producer's daily base determined pursuant to § 1018.90, multiplied by the number of days of production for which such producer delivered milk during the month.

§ 1018.19 Excess milk.

"Excess milk" means producer milk received by a handler which is in excess of base milk.

MARKET ADMINISTRATOR

The agency for the administration of this part shall be a "market administrator" selected by the Secretary. He shall be entitled to such compensation as may

be determined by the Secretary and shall be subject to removal at his discretion.

§ 1018.21 Powers.

§ 1018.20 Designation.

The market administrator shall have the following powers with respect to this part:

- (a) To administer its terms and provisions;
- (b) To make rules and regulations to effectuate its terms and provisions;
- (c) To receive, investigate, and report to the Secretary complaints of violations; and
- (d) To recommend amendments to the Secretary.

§ 1018.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and

provisions:

- (c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator:
- (d) Pay out of the funds received pursuant to § 1018.86:
- (1) The cost of his bond and the bonds of his employees;
 - (2) His own compensation; and
- (3) All other expenses, except those incurred under § 1018.85, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate:

(f) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 2 days after the date upon which he is required to perform such acts, has not made reports or made available records and facilities pursuant to §§ 1018.30 through 1018.32, or payments pursuant §§ 1018.80 through 1018.86;

(g) Furnish such information and verified reports as the Secretary may request, and submit his books and records to examination by the Secretary at

any and all times;

- (h) Verify all reports and payments of each handler, by audit of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and by such other means as are necessary;
- (i) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information which do not reveal confidential information:
- (j) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, and mail to each handler at his last known address, a notice of each of the following:
- (1) The 5th day of each month, the Class I price and the Class I butterfat differential, both for the current month, and the Class II price and the Class II butterfat differential, both for the preceding month; and
- (2) The 11th day of each month, the uniform prices computed pursuant to § 1018.72 and the producer butterfat differential, all for the preceding months; and
- (k) On or before the 12th day after the end of each month, report to each cooperative association which so requests the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

REPORTS, RECORDS AND FACILITIES

§ 1018.30 Reports of sources and utilization.

On or before the 7th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator for each of the plants with respect to which he is a handler for such month, and for each accounting period in each month, in the detail and on the forms prescribed by the market administrator, as follows:

- (a) The quantities of skim milk and butterfat contained in or represented by receipts of
 - (1) Producer milk;
- (2) Receipts from pool plants in the form of products designated as Class I pursuant to § 1018.41(a);
 - (3) Other source milk; and
- (4) Inventories in the form of products designated as Class I milk pursuant to § 1018.41(a) on hand at the beginning and end of the month or accounting period.
- (b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including separate statements as to the disposition of Class I milk on routes entirely outside the marketing area;
- (c) Such other information with respect to receipts and utilization as the market administrator may request;
- (d) The total quantity of base milk and the total quantity of excess milk received; and

(e) Each handler who submits reports on the basis of accounting periods of less than a month, as described in § 1018.45 (d), shall submit a summary report of the same information for the entire month.

§ 1018.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe; and

(b) Each handler, except a producerhandler, shall report to the market administrator in the detail and on forms prescribed by the market administrator;

- (1) On or before the 20th day after the end of the month, for each of his pool plants, his producer payroll for that month, which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including, separately, the pounds of base milk and the pounds of excess milk, (iii) the days for which milk was received from such producer, (iv) the average butterfat content of such milk, and (v) the net amount of the handler's payment with respect to such milk to the producer or cooperative association, together with the price paid and the amount and nature of any deductions:
- (2) On or before the first day other source milk as defined pursuant to § 1018.14(a) is received at his pool plants, his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product:
- (3) Such other information with respect to his sources and utilization of butterfat and skim milk, and at such times as the market administrator shall prescribe.

§ 1018.32 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data for each month, with respect to requirements of this part, including, but not limited to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form:

(b) The weights and tests for butterfat and other content of all milk and milk products handled:

(c) The pounds of skim milk and butterfat contained in or represented by all items of products on hand at the beginning and end of each month; and

(d) Payments to producers and cooperative associations, including any deductions, and the disbursement of money so deducted.

§ 1018.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: Provided, That if, within such three-year period, the market administrator noti-

fies the handler in writing that the retention of such books and records or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1018.40 Skim milk and butterfat to be classified.

The skim milk and butterfat required to be reported for pool plants pursuant to § 1018.30(a) shall be classified by the market administrator, pursuant to the provisions of §§ 1018.41 through 1018.45.

§ 1018.41 Classes of utilization.

Subject to the conditions set forth in §§ 1018.42 through 1018.45, the classes of utilization shall be as follows:

(a) Class I milk. Class I milk shall be all skim milk and butterfat:

- (1) Disposed of from the plant in the form of milk, skim milk, frozen milk (whole or concentrated), concentrated milk, reconstituted milk, chocolate milk, fortified skim milk up to the weight of an equal volume of unmodified skim milk, and fortified milk up to the weight of an equal volume of unmodified milk of the same butterfat test, and
- (2) Not specifically accounted for as Class II milk:
- (b) Class II milk. Class II milk shall be all skim milk and butterfat:
- (1) Used to produce any product other than those designated as Class I milk pursuant to paragraph (a) of this section:
- (2) Contained in inventories in the form of milk products designated as Class I milk pursuant to paragraph (a) of this section on hand at the end of each month and accounting period;
- (3) That portion of fortified milk or skim milk not classified as Class I milk pursuant to subparagraph (a) (1) of this section:
- (4) In total shrinkage of skim milk and butterfat, respectively, such shrinkage to be prorated to producer milk and other source milk received in the form of fluid milk or skim milk: Provided, That Class II classification of shrinkage prorated to skim milk and butterfat, respectively, in producer milk shall not exceed 2 percent of skim milk and butterfat in producer milk; and
- (5) Skim milk which is dumped at the plant after notification to the market administrator which provides adequate opportunity for him to observe the dumping operation and verify the amount of product dumped.

§ 1018.42 Responsibility of handlers.

All skim milk and butterfat to be classified pursuant to this order shall be classified as Class I milk, unless the handler who received such skim milk and butterfat establishes to the satisfac-

should be classified as Class II milk.

§ 1018.43 Transfers.

(a) Skim milk and butterfat transferred to a pool plant in the form of milk products designated as Class I milk pursuant to § 1018.41(a) shall be classified so as to result in the maximum assignment of the producer milk of both handlers to Class I milk within the accounting period used by each handler, and skim milk and butterfat so transferred shall be classified as Class I milk unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 1018.30: Provided, That the skim milk or butterfat so assigned, to Class II milk shall be limited to the respective amounts thereof remaining in Class II milk at the pool plants of the receiving handler after the subtraction of other source milk and beginning inventory pursuant to § 1018.45;

(b) Skim milk and butterfat transferred in bulk form as milk or skim milk from a pool plant to a nonpool plant, or diverted from a producer's farm to a nonpool plant for the account of a handler shall be classified as Class I milk unless the conditions pursuant to subparagraphs (1) and (2) of this paragraph are met and classification pursuant to subparagraph (3) or (4) of this paragraph is claimed by the transferring or divert-

ing handler;

(1) The nonpool plant is located less than 500 miles from the location of the main U.S. Post Office in Boca Raton. Florida, by the shortest hard-surfaced highway distance as determined by the market administrator or is a plant fully regulated under another order issued pursuant to the Act:

(2) The operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verifica-

tion; and

(3) The skim milk and butterfat in the milk transferred or diverted is classified as Class I milk in an amount not less than the pro rata assignment of such skim milk and butterfat and skim milk and butterfat received at the nonpool plant in milk classified and priced as Class I milk under another Federal order, such pro rata assignment to be to skim milk and butterfat in route disposition from the nonpool plant in forms designated as Class I milk in § 1018.41(a) after subtraction from such disposition of the quantities of skim milk and butterfat, respectively, in milk received at the nonpool plant from dairy farmers who the market administrator determines constitute the regular approved dairyfarmer supply for the nonpool plants, or

(4) If the nonpool plant to which milk is transferred or diverted is a plant fully regulated under another order issued pursuant to the Act, the milk transferred or diverted shall be classified as Class I milk in the same amount as it is classified in the highest price class under such other order, and the remainder shall be

Class II milk.

and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1018.30(a) and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk at all of the pool plants of such handler: Provided, That the skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1018.45 Allocation of skim milk and butterfat classified.

(a) For each month or other accounting period as described in paragraph (d) of this section, the pounds of skim milk remaining in each class after making the following computations with respect to the pool plants of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler:

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 1018.41

(b) (4):

- (2) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk not priced as Class I milk under another Federal order and received from a plant or dairy farmers located outside the State of Florida: Provided, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;
- (3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk not priced as Class I milk under another Federal order and received from a plant or dairy farmers located in the State of Florida: Provided, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk:
- (4) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk which is priced and pooled as Class I milk under another order except any quantities from a nonpool plant equal to or less than the skim milk in milk or skim milk disposed of from such nonpool plant and not priced and pooled under such other order: Provided, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;
- (5) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inven-

tion of the market administrator that it § 1018.44 Computation of skim milk tory of milk products in the form of products designated as Class I milk pursuant to § 1018.41(a) on hand at the beginning of the month or other accounting period: Provided, That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk the balance shall be subtracted from the pounds of skim milk remaining in Class I milk:

(6) Subtract the pounds of skim milk in milk products in the form of products designated as Class I milk pursuant to § 1018.41(a) received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned pursuant to § 1018.43(a);

(7) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(8) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in Class II milk, and then subtract any remaining excess from Class I. Any amount so subtracted shall be called "overage".

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to

producer milk;

(c) Add the pounds of skim milk and the pounds of butterfat in each class calculated pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in the producer milk allocated to each class; and

(d) A handler may account for receipts of milk, utilization of milk and classification of milk, at his plant, for periods within a month if he notifies the market administrator in writing of his intention to use such accounting period not later than the end of every accounting period.

MINIMUM PRICES

§ 1018.50 Class prices.

Subject to the provisions of § 1018.51, the class prices per hundredweight of milk to be paid by each handler shall be as follows:

- (a) Class I milk price. The price for Class I milk shall be \$7.00 per hundredweight, plus or minus a supply-demand adjustment as provided in paragraph (c) of this section: Provided, That the price shall not exceed by more than \$4.00 the price calculated pursuant to paragraph (b) of this section nor be less than the price calculated pursuant to paragraph (b) of this section plus \$2.75.
- (b) Calculate the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph:
- (1) To the average of the basic field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the preceding month at the following plants or places for which prices have been reported to the market administrator or to the Department:

PRESENT OPERATOR AND LOCATION

Borden Co., Mount Pleasant, Mich. Carnation Co., Sparta, Mich. Pet Milk Co., Wayland, Mich. Pet Milk Co., Coopersville, Mich. Borden Co., Orfordville, Wis. Borden Co., New London, Wis. Carnation Co., Richland Center, Wis. Carnation Co., Oconomowoc, Wis. Pet Milk Co., New Glarus, Wis. Pet Milk Co., Bellesville, Wis. White House Milk Co., Manitowoc, Wis. White House Milk Co., West Bend, Wis.

Add an amount computed by multiplying the Chicago butter price for the preceding month by 0.625; and

(2) The price per hundredweight computed as follows: Multiply the Chicago butter price for the preceding month by 4.0, add 20 percent thereof, and add to such sum 7.5 times the amount by which the Chicago powder price for the preceding month exceeds 5 cents.

(c) The supply-demand adjustment

shall be calculated as follows:

(1) The "supply-demand percentage" for a month means the quantity of producer milk during the second and third preceding months expressed as a percent of the gross Class I disposition of all pool plants during the same months, rounded to the nearest whole percent.

(2) The "standard utilization percentage" for each month means the percentage shown in the right-hand column of the following schedule in the same line with the month in the left-hand

column:

Month for which price applies	Months for which utiliza- tion is computed	Standard utiliza- tion per- centage
January	October-November November-December December-January.February.February.March.March.April-May.May-June.July.July-August-September.September.September.	105 108 112 114

- (3) The "deviation percentage" for a month means the difference between the supply-demand percentage for the month and the corresponding standard utilization percentage, the direction of such deviation to depend on whether it is above or below the standard utilization percentage.
- (4) Compute the deviation percentages for the current and two preceding months, and after excluding any deviation percentage which is in the opposite direction from the deviation percentage of a more recent month, compute a sum from the remaining deviation percentages which excludes any amount by which any of such deviation percentages exceeds any of such deviation percentages for a more recent month.
- (5) If the current month's supplydemand percentage is less than the corresponding standard utilization percentage, increase the Class I price by the number of cents which is 11/2 times the sum computed pursuant to subparagraph (4) of this paragraph (rounding any fraction of a cent to a whole cent); and if the current month's supply-demand

percentage is more than the corresponding standard utilization percentage, decrease the Class I price by the number of cents which is 11/2 times the sum computed pursuant to subparagraph (4) of this paragraph (rounding any fraction of a cent to a whole cent).

(e) Class II milk price. The Class II price per hundredweight shall be the sum of the amounts computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Multiply the Chicago butter price by 1.25, add 4 cents and multiply the result by 4; and

(2) Add 2.5 cents to the Chicago powder price and multiply the result by

§ 1018.51 Location differentials to handlers.

For that milk which is received from producers at a pool plant located 60 miles or more from the location of the main U.S. Post Office in Boca Raton, by the shortest hard-surfaced highway distance as determined by the market administrator, and which is assigned to Class I milk pursuant to the proviso of this section, when moved to another pool plant, or classified as Class I milk without such movement, the Class I price specified in § 1018.50 shall be reduced at the rate set forth in the following

> Rate per · hundredweight (cents)

> > 13.0

Distance (miles): 60 but not more than 70

For each additional 10 miles or fraction thereof over 70 an additional.

Provided, That for the purpose of calculating such locations differential, milk. in the form of any milk product designated as Class I milk pursuant to § 1018.41(a) transferred between pool plants shall be assigned to any remainder of Class II milk in the plant to which transferred after making the calculations prescribed in § 1018.45(a) (1) through (4), and the comparable steps in paragraph (b) for such plant, such assignment to the transferring plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 1018.52 Rate of compensatory payment.

- (a) Except as provided in paragraph (b) of this section, the rate of compensatory payment per hundredweight to be paid by pool plants, or by nonpool plants pursuant to § 1018.62(a), shall be calculated as follows:
- (1) If the milk is received at a pool plant from a nonpool plant located in the State of Florida, or if the nonpool plant described in § 1018.62(a) is located in the State of Florida, subtract the Class II price from the Class I price adjusted by the Class I location differential at the nonpool plant; or

(2) If the milk is received at a pool plant from a nonpool plant located outside the State of Florida, or if the nonpool plant described in § 1018.62(a) is located outside the State of Florida, subtract the price pursuant to § 1018.50(b)

(2) from the Class I price adjusted by the Class I location differential at the nonpool plant.

(b) If other source milk is received at a pool plant in a form other than milk or skim milk, the rate of compensatory payment per hundredweight with respect to such receipts shall be computed by subtracting the Class II price from the Class I price at the plant where such other source milk is received.

§ 1018.53 Use of equivalent prices.

If, for any reason, a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

\$ 1018.60 Producer-handler.

Sections 1018.50 through 1018.53, 1018.61, 1018.62, 1018.70 through 1018.75, and 1018.80 through 1018.86 shall not apply to a producer-handler.

§ 1018.61 Plants where other Federal orders may apply.

Upon determination by the Secretary pursuant to this section, any plant specified in paragraphs (a), (b) and (c) of this section shall be a nonpool plant. except that the operator of such plant shall, with respect to the total receipts and disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator:

- (a) Any plant meeting the requirements of a pool plant pursuant to § 1018.11(b) but not pursuant to § 1018.11 (a) which, if it were not a pool plant under this part, would be fully subject to the classification and pooling provisions of another order issued pursuant to the Act:
- (b) Any plant meeting the requirements of a pool plant pursuant to § 1018.11(b) but not pursuant to § 1018.11(a) at which all receipts of skim milk and butterfat during the month would be priced and pooled under the terms of another order(s) issued pursuant to the Act if such plant were not a pool plant under this order: Provided, That such pricing and pooling results in all skim milk and butterfat disposed of from the plant in the form of milk and skim milk during the month being Class I milk under the terms of another order(s) issued pursuant to the Act: and
- (c) Any plant which does not dispose of a greater volume of Class I milk on routes in the southeastern Florida marketing area than in the marketing area regulated pursuant to such other order.

§ 1018.62 Handlers operating nonpool plants.

On or before the 25th day after the end of each month, each handler (except as provided in § 1018.60) operating a nonpool plant from which Class I milk is disposed of on routes in the marketing area shall pay to the market administrator for deposit into the producer-settlement fund the amount calculated pursuant to paragraph (a) of this section unless the handler elects to pay the amount computed pursuant to paragraph (b) of this section:

(a) Multiply the quantity of milk received by such handler which was disposed of in the marketing area on routes as Class I milk during the month by the rate of compensatory payment pursuant to § 1018.52; or

(b) Any plus amount resulting from the following computation: from an amount equal to the value of milk which would be computed pursuant to § 1018.70 for such month if the plant were a pool plant, adjusted by the butterfat differential pursuant to § 1018.73, deduct the gross payments made by such handler to dairy farmers for milk approved by a duly constituted health authority as described in § 1018.7.

§ 1018.63 Person producing milk.

The person who produces milk shall be considered to be the person who is responsible for the milk production enterprise on a continuing basis as to management and risk.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 1018.70 Computation of the obligation of each handler.

For each month, the market administrator shall compute the value of producer milk for each handler as follows:

- (a) Multiply the quantity of producer milk in each class computed pursuant to § 1018.45 by the applicable class price as adjusted by the location differentials pursuant to § 1018.51, and total the resulting amounts;
- (b) Add an amount computed by multiplying the pounds of any overage deducted from either class pursuant to § 1018.45 (a) (8) and (b) by the applicable class price adjusted by the butter-fat differential specified in § 1018.73:
- (c) Add the amounts computed pursuant to subparagraph (1) and (2) of this paragraph:
- (1) Multiply the difference between the Class II price for the preceding accounting period and the Class I price for the month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 1018.45(a) (6) and the corresponding step of § 1018.45(b) for the preceding accounting period, or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1018.45(a) (5) and the corresponding step of § 1018.45(b) for the current accounting period, whichever is less: and
 - (2) Amounts computed as follows:
- (i) Multiply the rate of compensatory payment pursuant to § 1018.52(a) (1) by the quantity of skim milk and butterfat computed pursuant to subdivision (iii) of this subparagraph which does not exceed the quantity of skim milk and butterfat, respectively, subtracted from Class II milk pursuant to § 1018.45(a) (3) and the corresponding step of (b) for the preceding accounting period; (ii) multiply the rate of compensatory pay-

ment pursuant to § 1018.52(a) (2) by any remainder of the quantity computed pursuant to subdivision (iii) of this subparagraph which does not exceed the quantity of skim milk and butterfat respectively, subtracted from Class II milk pursuant to § 1018,45(a) (2) for the preceding accounting period; and (iii) calculate the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1018.45(a) (5) and the corresponding step of (b), which are in excess of the sum of the quantity of skim milk and butterfat, respectively, on which a payment is applicable pursuant to subparagraph (1) of this paragraph and the quantity of skim milk and butterfat assigned in the preceding accounting period to Class II milk pursuant to § 1018.45(a) (4) and the corresponding step of (b); and

(d) Add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1018.45(a) (2) and (3) by the applicable rate determined by § 1018.52: Provided, That this provision shall not apply in any month in which more than 95 percent of producer milk in all handlers' plants is classified as Class I milk.

§ 1018.71 Aggregate value used to determine producer prices.

For each month, the market administrator shall compute an aggregate value from which to determine the uniform prices for base milk and excess milk of 4.0 percent butterfat content, at the market as follows:

- (a) Combine into one total the values computed pursuant to § 1018.70 for the producer milk of all handlers who submitted reports prescribed in § 1018.30 and who are not in default of payments pursuant to § 1018.80;
- (b) Add an amount equal to the sum of the deductions to be made from producer payments for location differentials pursuant to § 1018.74; and
- (c) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund.

§ 1018.72 Computation of uniform base and excess prices.

For each month the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk, each of 4.0 percent butterfat content, at the market, as follows:

- (a) Compute the total value, on a 4.0 percent butterfat basis, of excess milk for all handlers whose receipts are included in the computation pursuant to § 1018.71 as follows: (1) Multiply the hundred-weight quantity of such milk which does not exceed the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the applicable Class II price plus 4 cents, (2) multiply the remaining hundredweight quantity of excess milk by the Class I milk price, and (3) add together the resulting amounts;
- (b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and subtract not less than 4 cents nor more than 5 cents. The re-

sulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content at the market:

- (c) Subtract the value of excess milk obtained in paragraph (a) of this section from the aggregate value of producer milk computed pursuant to § 1018.71;
- (d) Divide the amount calculated pursuant to paragraph (c) of this section by the total hundredweight of base milk included in these computations; and
- (e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content at the market.

§ 1018.73 Butterfat differential to producers.

The applicable uniform prices to be paid each producer shall be increased or decreased 7.5 cents for each one-tenth of one percent which the average butterfat content of his milk is above or below 4.0 percent, respectively.

§ 1018.74 Location differential to producers.

The applicable uniform prices computed pursuant to \$1018.72 to be paid for base milk and excess milk received at a pool plant located 60 miles or more from the location of the main U.S. Post Office in Boca Raton by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the pool plant where such milk was received, at the rates set forth in \$1018.51.

§ 1018.75 Notification of handlers.

On or before the 11th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

- (a) The amount and value of his producer milk in each class and the total thereof:
- (b) The uniform prices for base and excess milk computed pursuant to \$ 1018.72, and the butterfat differentials;
- (c) The amount and value of his base milk and excess milk, respectively, and the totals thereof; and
- (d) The amounts to be paid by such handler pursuant to §§ 1018.82, 1018.85, and 1018.86, and the amount due such handler pursuant to § 1018.83.

PAYMENTS

§ 1018.80 Time and method of payment for producer milk.

- (a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received as follows:
- (1) On or before the 20th day of each month to each producer who did not discontinue shipping milk to such handler before the 15th day of the month, an amount equal to not less than the base price for the preceding month less 20 percent, multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 5th day of the following month to each producer who did not discontinue shipping milk to such handler before the last day of the month, an amount equal to not less than the base price for the preceding month less 20 percent, multiplied by the hundredweight of milk received from such producer after the 15th and through the last day of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph; and

(3) On or before the 15th day of the following month, to each producer an amount equal to not less than the uniform prices for base milk and excess milk pursuant to § 1018.72, adjusted by the butterfat and location differentials to producers, multiplied by the respective hundredweight of base milk and excess milk received from such producer, subject to the following adjustment: (i) Less payments made to such producer pursuant to subparagraphs (1) and (2) of this paragraph, (ii) less marketing service deductions made pursuant to § 1018.85, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: Provided. That if by the date specified, such handler has not received full payment from the market administrator pursuant to § 1018.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment and payments to producers shall be completed. thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator:

(b) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall on or before the second day prior to each date on which payments are due individual producers, pay the cooperative association for milk received from the producermembers of such association as determined by the market administrator during the period for which payment is made, an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section:

(c) Each handler who received milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of the month;

(2) On or before the 10th day of the following month: (i) The total pounds of milk received during the month, (ii) the pounds of milk received each day, together with the butterfat content of such

milk, (iii) the total pounds of base milk and excess milk, (iv) the amount or rate and nature of any authorized deductions to be made from payments, and (v) the amount and nature of payments due pursuant to § 1018.84.

§ 1018.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to § 1018.82 and out of which he shall make all payments pursuant to § 1018.83: Provided, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1018.82 Payments to the producersettlement fund.

On or before the 12th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of his producer milk as computed pursuant to § 1018.70 is greater than the amount owed by him for such milk at the uniform prices determined pursuant to § 1018.72, adjusted by the producer location differentials: Provided, That to this amount shall be added one-half of one percent of any amount due the market administrator pursuant to this section for each month or portion thereof that such payment is overdue: And provided further. That the requirement as to date of payment pursuant to this section shall be considered to have been met if the payment is made by mail postmarked not later than the required payment date.

§ 1018.83 Payments out of the producersettlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler any amount by which the total value of his producer milk, computed pursuant to \$ 1018.70, is less than the amount owed by him for such milk at the uniform prices determined pursuant to § 1018.72, adjusted by the producer location differentials. .If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1018.84 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1018.85 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in mak-

ing payments to producers for milk pursuant to § 1018.80, shall deduct 4 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association pursuant to paragraph (b) of this section; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members. On or before the 15th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed for each producer.

§ 1018.86 Expense of administration.

On or before the 15th day after the end of each month, each handler shall pay to the market administrator, 4 cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in (a) producer milk, and (b) other source milk allocated to Class I milk pursuant to § 1018.45(a) (2) and (3) and the corresponding step in § 1018.45(b), or

(c) Class I milk disposed of on routes in the marketing area from a nonpool plant for which the obligation to the producer-settlement fund is determined pursuant to § 1018.62(a);

(d) Receipts of milk from dairy farmers, or total Class I milk, whichever is greater, at a nonpool plant which elects to have its obligation computed pursuant to § 1018.62(b); and

(e) With respect to payments pursuant to paragraphs (a), (b), (c), and (d) of this section, if a handler uses more than one accounting period in a month, the rate of payment per hundredweight for such handler shall be the rate for monthly accounting periods multiplied by the number of accounting periods in the month, or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods.

§ 1018.87 Termination of obligations.

The provisions of this section shall apply to any obligations under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the

market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

- (1) The amount of the obligation;
- (2) The months during which the milk, with respect to which the obligation exists, was received or handled; and
- (3) If the obligation is payable to one or more producers or to an association of producers, the names of such producers or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;
- (b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period, with respect to such obligation, shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative:
- (c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and
- (d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the payment (including deduction or offset by the market administrator) was made by the handler, if a refund on such payment is claimed unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the act, a petition claiming such money.

BASE RATING

§ 1018.90 Computation of daily base for each producer.

Subject to the rules set forth in § 1018.91, a daily base, effective for 12 months beginning February 1 of each year, shall be computed for each producer by dividing the total pounds of milk received from such producer at all pool plants during the base earning months of August through December immediately preceding by the number of days beginning with the first day of delivery by such producer during such months through the last day of December, inclusive, or by 120, whichever is

greater: Provided, That any producer who, during the preceding months of August through December, delivered his milk to a nonpool plant which subsequently became a pool plant shall be assigned a base in the same manner calculated from his deliveries during such August-December period to such plant: And provided further, That for the period beginning with March 1, 1960, and through January 31, 1961, the daily base for each producer shall be computed by dividing the total pounds of milk received from such producer at all pool plants during the base earning months of August 1959 through January 1960. inclusive, by the number of days from the first day of delivery during such months through the last day of January, or by 150, whichever is greater, subject also to the first proviso of this section applied to the August 1959 through January 1960 period instead of the August-December period.

§ 1018.91 Base rules.

The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base as calculated pursuant to § 1018.90 to each person for whose account milk was delivered to plants as described in § 1018.90 during the months of August through December (August through January for bases effective March 1, 1960): Provided, That any producer who has not earned a base pursuant to § 1018.90 or any producer who elects to relinquish such base by giving written notice to the market administrator, shall be assigned a base each month equal to the percentage of his deliveries specified in the following schedule:

	:enta
February	
March	
	•
May	
June	_
July	
August	
September	
October	
November	
December	
January	
•	

- (b) Assignment and transfer of any base shall be subject to the following rules:
- (1) An entire base (except one computed pursuant to the proviso of paragraph (a) of this section) may be transferred from a person holding such base to any other person, effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred: Provided, That if a base is held jointly, the entire base shall be transferable only upon the receipt of such application signed by all joint holders, or their heirs, and by the person to whom such base is to be transferred.
- (2) If milk received as producer milk under the name of more than one per-

son is produced on, in, or by use of the same milking barns or premises, the base or bases assigned to such persons as producers shall not exceed the base assignable if such milk were produced by one person using the same facilities.

- (3) A base may be divided among members of a partnership, among members of the immediate family of the baseholder, or among stockholders of a corporation at dissolution of the corporation, such division to be effective as of the end of any month during which an application for such division is received by the market administrator on forms approved by the market administrator and signed by persons making such division.
- (4) A person who has transferred a base computed from milk deliveries to pool plants during a base earning period may not have a base assigned to him on a percentage of his deliveries pursuant to the proviso of paragraph (a) of this section until after the end of the period to which the transferred base applies.
- (5) A producer who has made milk deliveries to pool plants during the immediately preceding base earning period may elect to have his base computed from his milk deliveries to pool plants in the second preceding base earning period, if he so notifies the market administrator prior to the month in which such election will apply.

§ 1018.92 Announcement of established bases.

On or before January 25th of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the producer's daily base to be effective for the 12-month period, beginning February 1 of such year: Provided, That for the period March 1960 through January 1961, each producer's base shall be announced on or before February 25, 1960.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1018.100 Effective time.

The provisions of the part, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1018.101 Suspension or termination.

The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this order or any amendment thereto.

§ 1018.102 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1018.103 Liquidation.

Upon the suspension or termination of any or all provisions of this part, the

market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including account receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1018.110 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

§ 1018.111 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

[F.R. Doc. 60-5174; Filed, June 7, 1960; 8:48 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Reg. Docket No. 415]

AIRWORTHINESS DIRECTIVES

Beech Aircraft

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring modification to certain Beech C45 Series aircraft. It has been determined that a condition exists which would present a hazard in an emergency situation. Certain Beech C45 Series aircraft converted from military status have seats obstructing the emergency exits and the emergency position switch on the electrical turn and bank indicator bypasses the master switch.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before July 11, 1960, will be considered by the Administrator before taking action on the proposed rule. The proposals con-

tained in this notice may be changed in light of comments received. All comments submitted will be available, in the Docket Section, for examination by interested persons when the prescribed date for return of comments has expired. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) (14 CFR Part 507), by adding the following airworthiness directive:

Beech. Applies to all Beech Model C45G, C45H, TC45G and TC45H airplanes which have been converted from military status to civil certification.

Compliance required not later than October 1, 1960.

The emergency position switch of the electrical turn and bank indicator that bypasses the master switch arrangement contrary to CAR 3.688, must be removed. The live wire connected to the switch must be disconnected at the battery terminal and either removed from the airplane or carefully insulated and secured.

Passenger seats (P/N 734-183302) which partially block the emergency exit must be removed, relocated, or reversed to provide a clear and unobstructed opening as required by CAR 3.387. Two configurations of seat P/N 734-183302 were delivered to the military only one of which has been structurally substantiated for aft facing mounting. This seat can be identified by the triangular shaped closed rear leg formed from 2 sheets of .040 alal with a long stiffening bead on the outer face of the leg. FAA approval must be obtained for any modification of the seating arrangement, other than removing or or reversing (if applicable) the obstructing seat.

Issued in Washington, D.C., on June 2, 1960.

B. PUTNAM, Acting Director, Bureau of Flight Standards.

[F.R. Doc. 60-5153; Filed, June 7, 1960; 8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-FW-2]

CONTROL AREAS

Modification of Control Area Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1139 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration the modification of the Fort Rucker, Ala., control area extension. The Fort Rucker control area extension is presently designated within a 35-mile radius of a point at latitude 31°14′55″ N., longitude 85°46′20″ W., excluding the portion which coincides with Restricted Area R-156. It is proposed to designate additional control area to the northeast bounded on the north by VOR Federal airway No. 70, on the east by VOR Federal airway No. 241, and on the

southwest by the present control area extension and VOR Federal airway No. 7; and additional control area to the west bounded on the west by VOR Federal airway No. 115, on the north by VOR Federal airway No. 70, on the south by VOR Federal airway No. 241 and on the east by the present control area extension. The U.S. Army Aviation Center and School at Rucker is responsible for the instrument training of personnel in fixed and rotary wing type aircraft. To accommodate the extensive instrument training required, departure and arrival routes and holding patterns have been developed which would require additional control area to provide protection for aircraft operating in the Fort Rucker area.

If this action is taken, the Fort Rucker, Ala., control area extension would be designated as that area bounded on the west by VOR Federal airway No. 115, on the north by VOR Federal airway No. 70, on the east by VOR Federal airway No. 7; and the area within a 35-mile radius of a point at latitude 31°14′55″ N., longitude 85°46′20″ W., extending from Victor 241 clockwise to Victor 7, on the south by VOR Federal airway No. 22, excluding the portion which coincides with the Camp Rucker, Ala., Restricted Area (R-156) during its time of designation.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air. Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 1, 1960.

D. D. Thomas, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5154; Filed, June 7, 1960; 8:45 a.m.]

Notices

CIVIL AERONAUTICS BOARD

[Docket 11234; Order No. E-15318]

JOHNSON FLYING SERVICE, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 2d day of June 1960.

In the matter of the application of Johnson Flying Service, Inc., for an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958.

On March 21, 1960, Johnson Flying Service, Inc. (Johnson), a certificated supplemental air carrier, filed a letter application with the Board seeking an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended, under which it would be enabled to carry persons in foreign air transportation from the United States to Canada on an infrequent and irregular basis utilizing for this purpose aircraft not exceeding 12,500 pounds maximum certificated take-off weight.

In support of its application, Johnson recites that it receives up to twenty requests annually from business concerns, civic organizations, vacationers and persons desiring emergency air ambulance service for air transportation services from the United States to Canada. Under its present operating authority, Johnson has been unable to satisfy these requests. The economic loss sustained by Johnson resulting from its lack of operating authority in this respect amounts to several thousand dollars annually and is of considerable importance to Johnson.

The Board has considered the application and finds that the limited extent of the foreign air transportation services which Johnson seeks to provide, a major portion of which will be on an emergency basis, will have little, if any, competitive impact on other air carriers, while the additional revenue which Johnson will be able to generate from these operations will be of benefit to Johnson and will strengthen its financial position. The time and expense involved in prosecuting a certificate proceeding by which to obtain authority to conduct the proposed operations would be wholly disproportionate to the limited and sporadic operations for which the exemption is sought, and the duration of such a proceeding would prevent such operations from being conducted during its pendency. Moreover, the time incidental to prosecuting an application for exemption authority would in emergency or short notice conditions prevent the carrying out of the operations. Accordingly, the Board finds that enforcement of the provisions of section 401 of the Act and § 291.23(a) of the Board's Economic Regulations, insofar as they would otherwise prevent the operations sought by Johnson would be an undue burden on Johnson by reason of the limited extent of, and unusual circumstances affecting, its operations and is not in the public interest.

The Board therefore considers it appropriate to grant Johnson an exemption to enable the carrier to conduct the proposed operations subject to the following conditions:

1. Such flights shall be conducted on an infrequent and irregular basis utilizing aircraft not exceeding 12,500 pounds maximum certificated take-off weight.

2. Johnson shall file with the Board flight reports disclosing the extent and nature of operations conducted under such exemption, said reports to be filed concurrently with reports to be filed as a supplemental air carrier.

3. Such exemption shall not extend beyond the expiration date of Johnson's temporary certificate of public convenience and necessity.¹

The Board will afford all interested parties the opportunity to show cause why an exemption order as described above should not issue.

Accordingly, it is ordered:

- 1. That all interested persons having any objections to the issuance of an exemption order by the Board under the terms of which Johnson Flying Service, Inc. will be permitted to carry persons in foreign air transportation between the United States and Canada on an infrequent and irregular basis utilizing aircraft not exceeding 12,500 pounds maximum certificated take-off weight shall file a statement of such objections with the Board within fifteen days from the date thereof:
- 2. That any objections filed by interested persons in opposition to the grant of an exemption to Johnson must conform to the Board's Rules of Practice in Economic Proceedings and shall indicate the basis for the objections, together with a summary of the evidence, if any, which the objector would introduce if offered the opportunity for an evidentiary hearing. If no objections are received within fifteen days after the date of this order. or if, in the Board's judgment, such objections as are received do not require reconsideration of the Board's findings and its conclusions herein, the Board will by subsequent order, and without further hearing, grant an exemption as outlined

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL]

MABEL McCart, Acting Secretary.

[F.R. Doc. 60-5184; Filed, June 7, 1960; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 13462-13465; FCC 60M-953]

BROCKWAY CO. (WMSA) ET AL.

Order Following Prehearing Conference

In re applications of The Brockway Company (WMSA), Massena, New York, Docket No. 13462, File No. BP-12290; Twin State Broadcasters, Inc. (WTWN), St. Johnsbury, Vermont, Docket No. 13463, File No. BP-13040; Trustees of Dartmouth College (WDCR), Hanover, New Hampshire, Docket No. 13464, File No. BP-13112; WIRY, Inc. (WIRY), Plattsburgh, New York, Docket No. 13465, File No. BP-13631; for construction permits.

Pursuant to agreements reached by counsel for all parties at the prehearing conference held on May 26, 1960, as set forth on the record thus made;

It is ordered, This 1st day of June 1960, that the following shall govern the further course of this proceeding:

(1) The direct cases of the applicants shall be presented by written, sworn exhibits.

(2) An informal engineering conference among the parties shall be held on June 1, 1960;

(3) The proposed engineering exhibits of the applicants shall be exchanged by July 1, 1960. (Copies of such exhibits are to be supplied also to the Hearing Examiner and Broadcast Bureau counsel.)

(4) Notification as to witnesses, if any, desired to be present at the hearing for cross-examination shall be given by the parties concerned by July 8, 1960.

It is further ordered, That the hearing heretofore scheduled to commence on June 13, 1960, is continued to Thursday, July 14, 1960, at 10:00 a.m., in the offices of the Commission at Washington, D.C.

Released: June 2, 1960.

FEDERAL COMMUNICATIONS COMMISSION.

[STAL] B

BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-5189; Filed, June 7, 1960; 8:50 a.m.]

[Docket No. 13547; FCC 60-639]

BUNKIE BROADCASTING, CO.

Order Designating Application for Hearing on Stated Issues

In re application of Charles T. Hook tr/as Bunkie Broadcasting Co., Bunkie, Louisiana, Docket No. 13547, File No. BP-11214; Requests: 1540kc, 250w, Day; for construction permit.

At a session of the Federal Communications Commission held at its

¹ Johnson's certificate of public convenience and necessity will expire March 29, 1964. See Order E-13436, Docket 5132, et al., Jan. 28, 1959.

5108 NOTICES

day of June 1960;

The Commission having under consideration the above-captioned and described application:

It appearing that except as indicated by the issues specified below, the instant applicant is legally, technically, and otherwise qualified to construct and operate the instant proposal; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated April 5, 1960, and incorporated herein by reference, notified the applicant, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of the application would serve the public interest, convenience and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the applicant filed a timely reply to the aforementioned letter, which reply has not, however, entirely eliminated the grounds and reasons precluding a grant of the application and requiring an evidentiary hearing on the particular issues herein-

after specified; and

It further appearing that the Commission's above-referenced letter of April 5, 1960, advised the applicant that his estimated cost of equipment, \$3.745. did not appear to be realistic and that no showing was made that the equipment could be purchased at the prices specified; that the applicant amended to show his estimated cost of equipment as \$4.610: but that the revised estimate does not appear realistic and no showing has been submitted to indicate that the equipment could be purchased at the nominal prices specified; and that, if the \$4,610 figure is inadequate, the applicant does not appear to have sufficient funds available to construct and operate the proposed station; and

It further appearing that after consideration of the foregoing and the applicant's reply, the Commission is still unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity; and is of the opinion that the application must be designated for hear-

ing on the issues specified below;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant application is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the applicant's estimated cost of equipment is realistic, and, if not, whether the applicant is financially qualified to construct and operate his proposed station.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, whether a grant of the instant application would serve the public interest, convenience, and necessity.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mail-

offices in Washington, D.C., on the 1st ing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this

Released: June 3, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

BEN F. WAPLE, [SEAL]

Acting Secretary.

[F.R. Doc. 60-5190; Filed, June 7, 1960; 8:50 a.m.1

[Docket No. 13501; FCC 60M-955]

CONCORD KANNAPOLIS **BROADCASTING CO.**

Order Rescheduling Hearing

In re application of Concord Kannapolis Broadcasting Company, Concord, North Carolina, Docket No. 13501, File No. BPH-2826; for construction permit (FM).

It is ordered, This 2d day of June 1960, with the consent of all interested parties, that formal hearing in the aboveentitled proceeding which by order released May 12, 1960 (FCC 60M-827) was scheduled for July 11, 1960, is hereby rescheduled and will be held June 7, 1960, in the Offices of the Commission, Washington, D.C., commencing at 9:00 a.m.

Released: June 2, 1960.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL]

BEN F. WAPLE Acting Secretary.

[F.R. Doc. 60-5191; Filed, June 7, 1960; 8:50 a.m.]

[Docket No. 13481; FCC 60M-954]

NATHAN FRANK (WNBE-TV) **Order Continuing Hearing**

In re proposal filed by Nathan Frank (WNBE-TV), New Bern, North Carolina, Docket No. 13481; for specification of transmitter and antenna site.

The Hearing Examiner having under consideration the matters discussed at the prehearing conference in the aboveentitled proceeding which was held on June 1, 1960; and

It appearing that it is desirable to formalize by an order the rulings made on the record and the deadlines established:

It is ordered, This 2d day of June 1960, that the outline of procedures to be followed which was distributed to the parties by the Hearing Examiner and made a part of the record of the prehearing conference is hereby adopted in its entirety, as clarified orally on the record:

It is ordered further, That the transcript of the prehearing conference insofar as it contains pertinent rulings and comments by the Hearing Examiner, the reasons and explanations thereof, and the comments and objections of the parties with regard thereto, is hereby deemed incorporated herein to the same

force and effect as if it were set out herein verbatim;

It is ordered further, (1) That the exhibits delineated in items 1, 2 and 3 in the outline of procedures adopted by the Hearing Examiner are to be exchanged by the parties (with a copy of each furnished to the Examiner) not later than August 8, 1960; (2) that exhibits in rebuttal thereof are to be similarly exchanged on or before September 15, 1960; (3) that a further prehearing conference for the purposes delineated on the record is scheduled for 10:00 a.m., Monday, September 26, 1960, at the Commission's offices, Washington, D.C.; and (4) that the hearing itself is continued to Monday, October 3, 1960, at the same time and place.

Released: June 2, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,

Acting Secretary.

[F.R. Doc. 60-5192; Filed, June 7, 1960; 8:50 a.m.]

[Docket No. 13090; FCC 60-635]

FREDERICKSBURG BROADCASTING CORP. (WFVA) ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Fredericksburg Broadcasting Corporation (WFVA), Fredericksburg, Virginia, et al., Docket No. 13090, File No. BP-11550, et al.; for construction permits.

- 1. The Commission has before it for consideration a petition for reconsideration, filed March 10, 1960, by William C. Forrest and WBOW, Incorporated, and oppositions thereto filed by the Commission's Broadcast Bureau and Bloomington Broadcasting Corporation on April 11, 1960, and March 23, 1960, respectively.
- 2. In Mid-America Broadcasting System, Inc., 19 RR 889, released February 9, 1960 (FCC 60-94), the Commission denied a request for programming issues because the interference to an existing station was less than 10 percent of the population within the existing station's normally-protected service area and because no threshold showing was made that programming evidence would be of decisional significance. In that same opinion, it was also stated that where there is an engineering showing that the interference would affect more than 10 percent of the population within the normally-protected service area of the existing station, a petition for programming issues would be granted. The Commission went on to say, however, that even in such situations a request for programming issues would be denied

¹ It is recognized that the date established at the prehearing conference for the second prehearing conference was September 22, 1960. However, the Examiner discovered subsequently that that date and the day following, coincides with the Jewish High Holiday. Accordingly, the second prehearing conference will be held on Monday, September 26, 1960 instead.

if those opposing the request allege factual circumstances showing that programming evidence would not be of decisional significance and such allegations are not controverted by the petitioner in its reply.

- 3. In accordance with the views thus enunciated in Mid-America, the Commission, in Fredericksburg Broadcasting Corporation, 19 RR 895, released February 9, 1960 (FCC 60-99), added programming issues as to the proposals of WSBC Broadcasting Co. and Bloomington Broadcasting Corporation because their applications showed that the operations proposed by them would cause interference affecting in excess of 10 percent of the populations within the normallyprotected contours of petitioner William C. Forrest's Station WIBU and of Station WBOW (licensed to petitioner WBOW, Incorporated), respectively. The added issues read as follows:
- 6. To determine the type and character of program service rendered by Stations WIBU and WBOW, respectively; whether such program service of each of them meets the requirements of the population and area which would lose such service as a result of the grant of the modification applications of WSBC Broadcasting Co. (File No. BP-12503), and Bloomington Broadcasting Corporation (File No. BP-12835), respectively; and the extent to which the programming of other existing standard broadcast stations meets the requirements of these interference areas.
- 7. To determine the type and character of the program service to be rendered by WSBC Broadcasting Co. and by Bloomington Broadcasting Corporation, respectively; whether the program service of each of them would meet the requirements of the populations and areas which would gain service upon grant of their respective modification applications; and the extent to which the programming of other existing standard broadcast stations meets the requirements of the areas thus gained.

The Opinion and Order in Fredericksburg also provided:

It is further ordered, That WBOW, Incorporated, and William C. Forrest, respectively, shall have the burden of proof and the burden of proceeding with the introduction of evidence under Issue 6; and that WSBC Broadcasting Co. and Bloomington Broadcasting Corporation, respectively, shall have the burden of proof and the burden of proceeding with the introduction of evidence under Issue 7.

In explanation of the division of burdens between the petitioners and the applicants, the Commission in Fredericksburg stated:

The first of the two added issues relates to the programming of the petitioners and of existing stations now serving the proposed interference areas. The second of the two added issues relates to the programming proposed by the applicants and to the programming of existing stations now serving the proposed new service areas. Since the matters encompassed by the first of the added issues are of primary concern to the petitioners, the burden of proof and burden of proceeding with the introduction of evidence under that issue will be placed upon the petitioners. These burdens under the second of the added issues will be placed upon the applicants, since they are primarily concerned with the matters encompassed by that issue.

- 4. Petitioners William C. Forrest and WBOW, Incorporated, submit that the Commission was in error in placing upon them the burden of proceeding with the introduction of evidence and the burden of proof under the first of the two added programming issues. In support of their view, they quote that portion of section 309(b) of the Act which provides that these burdens shall be upon the applicant. If, however, this is not regarded as a proceeding under section 309(b), petitioners maintain that it is a proceeding under section 316 of the Act, citing Democrat Printing Co. v. FCC, 202 F. 2d 298, 7 RR 2138 (C.A.D.C., 1952), and FCC v. National Broadcasting Company (KOA), 319 U.S. 239 (1943) as authority for the view that interference to an existing station constitutes an indirect modification of the latter's license within the meaning of section 316 of the Act. Since, according to petitioners, it is clear that under the only two provisions of the Act which may be applicable to this proceeding the burden of proceeding with the introduction of evidence and the burden of proof must be placed either upon the applicant (section 309(b)) or upon the Commission (section 316(b)), the Commission acted unlawfully in placing these burdens upon the petitioners. Moreover, argue petitioners, they have no more knowledge than the applicants concerning the program service of existing stations serving the areas which would lose petitioners' service.
- 5. In opposition, Bloomington contends that the net effect of petitioners' position is that a respondent would be relieved of the necessity of adducing any evidence which it feels desirable or necessary to protect its own interests, and would impose upon applicants the insuperable burden of proceeding with the introduction of evidence which, by definition, is within the possession and peculiar knowledge of the respondent. Bloomington contends that section 309(b) relates only to issues "specified by the Commission". While Blooming-ton concedes that it has the burden of proving the ultimate issue, viz., that the grant of its application would be in the public interest, it maintains that section 309(b) does not require that it assume the burden of proceeding with the introduction of evidence and the burden of proof as to issues which were requested by the petitioner and which only the petitioner is in a position to prove. Bloomington points out that evidence as to WBOW's programming is not available to it, and that only if Bloomington were given access to WBOW's files could Bloomington produce such evidence.
- 6. The Broadcast Bureau also opposes the petition, maintaining that the burden provisions of section 309(b) are applicable only to issues "specified by the Commission". As to issues not "specified by the Commission", whether included in the designation order or subsequent thereto, the burden provisions of section 309(b), the Bureau maintains, do not apply. In support of its view, the Bureau cites § 1.140(b) of the rules, which provides that these burdens shall be upon the applicant "except as otherwise provided in the order of designa-

tion." The Bureau submits that issues added after a 309(b) designation may be analogized to issues added pursuant to a protest under section 309(c) of the Act, and it notes that section 309(c) grants the Commission a measure of discretion as to where the burdens shall be placed. The Bureau also urges that the programming issues do not pose a question under § 3.24 1 of the Commission's rules but merely seek information from the respective parties, who would appear to have the best knowledge thereof, for the purpose of assisting the Commission should it determine that programming evidence is material to the disposition of the proceeding in making a § 3.24 determination. The Bureau contends, as does Bloomington, that the petitioners are in a better position than the applicant to present evidence as to their own programming, and in just as good a position to introduce such evidence as to the programming of existing stations serving the interference area.

7. At the time Issues 6 and 7 were added, it was thought that the WSBC proposal would cause interference to Station WIBU affecting substantially more than ten percent of the population within Station WIBU's normally protected service contour. It now appears that the engineering exhibits which have been exchanged and not objected to by the petitioners show that any objectionable interference which would be caused to Station WIBU by the WSBC proposal falls in an area presently under objectionable interference caused by other existing stations. It is therefore clear that the programing issues which we previously adopted with respect to the WSBC proposal will serve no useful purpose. Accordingly, Issues 6 and 7, and the ordering clause dealing with the burden of proceeding with the introduction of evidence and the burden of proof, will be amended by deleting all reference to William C. Forrest and Station WIBU, and to WSBC Broadcasting Company and its proposal, and the instant petition will be dismissed as moot insofar as it requests reconsideration on behalf of William C. Forrest.

8. Section 316(b) of the Act provides that the Commission shall have the burden of proceeding with the introduction of evidence and the burden of proof in "any case where a hearing is conducted pursuant to the provisions of this section." We do not agree with the petitioner's contention that section 316(b) requires that these burdens be placed upon the Commission under Issue 6. To be sure, the interference which would be received by the petitioner's station were Bloomington's application granted would, under the KOA decision, constitute an indirect modification of William C. For-

¹ Section 3.24 provides in pertinent part as follows: "An authorization for a new standard broadcast station or increase in facilities of an existing station will be issued only after a satisfactory showing has been made in regard to the following among others: * * * (b) That objectionable interference will not be caused to existing stations or that if interference will be caused the need for the proposed service outwelghs the need for the service which will be lost by reason of such interference * * *."

rest's license entitling him, under section 316(a) of the Act, to a hearing. The Supreme Court in KOA did not, however, hold that the hearing to which the interfered-with station is entitled must be conducted pursuant to section 316(a). On the contrary, the proceeding in that case was not conducted pursuant to section 316(a), which was then section 312(b), but was rather a proceeding on an application by an existing station proposing an increase in power, and the Court concluded that section 316(a) requires that the station which would receive interference from the modification proposal is entitled to intervene in the proceeding on that proposal. It is thus evident, under the facts of KOA, that the hearing which under section 316(a) is to be accorded the station which would receive interference from a proposed operation need not be a hearing pursuant to that section. It is likewise evident that the instant proceeding, like that involved in KOA, is not one which is held pursuant to section 316(a), but is rather a proceeding on applications for construction permits. It is clear, therefore, that the provisions of section 316(b) are inapplicable to Issue 6 in this proceeding.

9. Nor are we persuaded that section 309(b) of the Act requires that the applicant assume the burden of proceeding with the introduction of evidence and the burden of proof under Issue 6. The petitioner's arguments to that effect presuppose the applicability of section 309 (b) to issues added after issuance of the designation order. The context of section 309(b) clearly suggests that the words "in which the burden of proceeding with the introduction of evidence upon any issue specified by the Commission, as well as the burden of proof upon all such issues" has reference to a preceding provision in the same section that if the Commission "shall be unable to make the finding specified in subsection (a), it shall formally designate the application for hearing on the grounds or reasons then obtaining and shall notify the applicant and all other known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue * * *." This latter provision. in view of the context of section 309(b) as a whole, is limited to the period ending with the issuance of the designation order.2 The burden provisions of section to issues adopted subsequent to the issuance of the designation order.

10. It is apparent, of course, that the provisions of section 309(c) of the Act relating to the burden of proceeding with the introduction of evidence and the burden of proof are not applicable to this proceeding. Since none of the burden provisions of sections 316(b), 309 (b) and (c) is applicable to issues added subsequent to the issuance of a section 309(b) designation order, it is incumbent upon the Commission to exercise its discretion, in the light of the circumstances presented, as to where to place the burden of proceeding with the introduction of evidence and burden of proof.

11. In placing these burdens under Issue 6 upon the petitioner, the Commission did not, of course, relieve the applicant of the ultimate burden of satisfying the Commission that a grant of its application would be in the public interest, nor did it relieve the applicant of its burden of making a satisfactory showing that the need for its proposed service outweighs the need for the service which would be lost by reason of the interference, as required by § 3.24(b) of the Commission's rules. The narrow question presented by the instant petition is whether, under the circumstances here presented, the Commission was in error in placing these burdens upon the petitioner insofar as a showing favorable to its view is concerned. The interference which would be caused to the petitioner's station is co-channel in nature; thus, while the petitioner's service would be eliminated in the interference area, the applicant's service would not be substituted therefor. Issue 6 calls for a determination of the petitioner's programing, whether its service meets the programing needs of the interference area, and whether other existing stations serving the interference area meet such programing needs. While the petitioner, at the time it requested programing issues, made no factual allegations that the needs of the interference area require a continuance of its service to such area, we did not assume that its request was frivolous or that it was made without regard to any facts; had we made such an assumption, the original request for programing issues would have been denied. Thus, implicit in the petitioner's request was a representation that the programing needs of the interference area would not be met were the area to be deprived of the petitioner's service. Having made this implicit representation, the petitioner cannot persuasively contend that it should now be relieved of the responsibility of demonstrating the validity of such representation. To relieve it of this responsibility would pave the way to requests for programing issues which petitioners therefor know are patently frivolous and the only purpose of which is to obstruct and delay the institution of a new broadcast service. In placing upon the petitioner the burden of proceeding with the introduction of evidence and burden of proof under Issue 6, the Commission is thus requiring no more of the petitioner than was implicit in its request for programing issues in the first instance; for

309(b), therefore, do not have reference if, under the circumstances here presented, the petitioner is unable to show that the programing needs of the interference area would not be met without his service, the underlying basis of its request for a programing issue has been dissipated.

12. As between the applicant and the petitioner, it is clear that the latter is in the better position to prove the programing needs of the interference area and the need of that area for the petitioner's service. As has been indicated. the interference is co-channel in nature, and hence the applicant will not serve that area and its programing needs are not of primary concern to it. The petitioner, on the other hand, has been serving the area, it presumably has some knowledge of its needs, and, in view of its assertion that the programing needs of that area will not be met without its' service, the petitioner presumably also has knowledge of the programing of other stations serving the interference area and the extent to which such stations meet the programing needs of that area. Both from the standpoint of primary concern for the needs of the interference area and from the standpoint of knowledge as to the manner in which the programing needs of the interference area are now met, the petitioner is in a better position than the applicant to assume the burden of proceeding with the introduction of evidence and the burden of proof under Issue 6.

13. In placing the burden of proceeding with the introduction of evidence and burden of proof under Issue 6 upon the petitioner, we are not unmindful of the statement in Democrat Printing, supra, that § 3.24 of our rules "appears" to place these burdens upon the applicant as to "the comparative need in the interference area" for the programming of the applicant and of the interfered-with station. The interference involved in Democrat Printing was adajcent channel in nature; thus, the applicant's service would be substituted for that of the existing station in the interference area. In such a situation, a direct comparision could be made of the respective needs of the interference area for the proposed programs of the applicant as compared to the programs of the existing station. Since the instant situation involves cochannel interference, there would be no substitution of service, and a comparison such as that called for by Democrat Printing is therefore not possible. Democrat Printing, the Court regarded a determination of the programming needs of the interference area as dispositive of the determination called for by § 3.24(b) of the rules, and, if so regarded,3 it follows that the burden of showing and proving the programming needs of the interference area is, under § 3.24(b), upon the applicant. In the present situation, however, the comparison is to be made between the need for

^{*}In this connection, it may be noted that in Plains Television Corporation v. FCC, Court of Appeals for the District of Columbia Circuit, Case No. 15,204 decided April 28, 1960, the Court indicated its approval of the Commission's interpretation of the notice provisions of section 309(b) as "designed, by calling early attention to deficiencies in an application, to give the applicant the opportunity to cure those deficiencies and perhaps avoid a hearing." See also Robert A. Mensel, 14 RR 1189 (1957), Port Huron Broadcasting Co., 11 RR 936 (1954), Greenwich Broadcasting Corporation, 11 RR 621 (1954), and Theodore Feinstein, 14 RR 759 (1956), as instances in which the Commission placed upon the interfered-with station the burden of proceeding with the introduction of evidence and/or the burden of proof under programming issues adopted subsequent to the issuance of the designation order.

⁸ A comparison, in an adjacent channel interference situation, only of the need of the interference area for the service which will be lost as against the need of that area for the service which will be gained, over-looks the need of the proposed service area (outside the interference area) for the new

the applicant's programming in the proposed service area as against the need for the interfered-with station's programming in the interference area. In this comparison, the burden, under § 3.24(b) of the rules, is upon the applicant to show that the need for its proposed programming outweighs the need for the programming of the interferedwith station; in placing upon the petitioner the burden of proceeding with the introduction of evidence and the burden of proof under Issue 6, which relates to the programming needs of the interference area, we did not, as indicated above, relieve Bloomington of its burden under § 3.24(b) of the rules of showing that the need for its proposed service outweighs the need for the service which will be lost by reason of the interference it would cause to Station WBOW.

Accordingly, it is ordered, That the petition for reconsideration, filed March 10, 1960, by William C. Forrest and WBOW, Incorporated, is dismissed as moot to the extent indicated herein, and in all other

respects, is denied;

It is further ordered, On the Commission's own motion, That Issues 6 and 7 in the above-captioned proceeding, and the final ordering clause in our Memorandum Opinion and Order released February 9, 1960 (FCC 60-99), are amended to read as follows:

- 6. To determine the type and character of program service rendered by Station WBOW; whether such program service meets the requirements of the population and area which would lose such service as a result of the grant of the modification application of Bloomington Broadcasting Corporation (File No. BP-12835); and the extent to which the programing of other existing standard broadcast stations meets the requirements of the interference area.
- 7. To determine the type and character of the program service to be rendered by Bloomington Broadcasting Corporation; whether such program service would meet the requirements of the populations and areas which would gain service upon grant of its modification application; and the extent to which the programing of other existing standard broadcast stations meets the requirements of the areas thus gained.

It is further ordered, That WBOW, Incorporated, shall have the burden of proceeding with the introduction of evidence and the burden of proof under Issue 6; and Bloomington Broadcasting Corporation shall have the burden of proceeding with the introduction of evidence and the burden of proof under Issue 7.

Adopted: June 1, 1960. Released: June 3, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-5193; Filed, June 7, 1960; 8:50 a.m.]

[Docket No. 13179; FCC 60M-950]

MARTIN KARIG

Order Scheduling Hearing

In re application of Martin Karig, Johnstown, New York, Docket No. 13179, File No. BP-11926; for construction permit.

It is ordered, This 1st day of June that the hearing in this proceeding will be held on Monday, July 11, at 10:00 a.m.

Released: June 2, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-5195; Filed, June 7, 1960; 8:51 a.m.]

[Docket No. 13537]

MAYNARD M. HASKALL Order To Show Cause

In the matter of Maynard M. Haskall, P.O. Box 814, Ft. Pierce, Florida, Docket No. 13537; order to show cause why there should not be revoked the license for radio station WA-2168 aboard the vessel "Alert."

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station:

It appearing that pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows: Official Notice of Violation was mailed to the licensee on February 1, 1960 alleging that on January 29, 1960 the subject ship radio station was not provided with Part 8 of the Commission's rules in violation of § 8.367(a) (2) of said rules;

It further appearing that the abovenamed licensee received said official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated March 9, 1960, and sent by Certified Mail—Return Receipt Requested (No. 877830), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's Rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing that receipt of the Commission's letter was acknowledged by the signature of the licensee, Maynard M. Haskall, on March 10, 1960, to a Post Office Department return receipt; and

It further appearing that although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing, that in view of the foregoing, the licensee has repeatedly violated § 1.61 of the Commission's rules;

It is ordered, This 27th day of May 1960, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the abovecaptioned radio station should not be

revoked, and appear and give evidence in respect thereto at a hearing 1 to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by Certified Mail—Return Receipt Requested to the said licensee.

Released: June 2, 1960.

FEDERAL COMMUNICATIONS COMMISSION, BEN F. WAPLE,

[SEAL]

Acting Secretary.

[F.R. Doc. 60-5194; Filed, June 7, 1960; 8:50 a.m.]

[Docket No. 13337; FCC 60M-951]

HARRY C. OTIS

Order Rescheduling Hearing

In the matter of Harry C. Otis, 1941 Myer Place, Costa Mesa, California, Docket No. 13337; order to show cause why there should not be revoked the license for radio station, WJ-4389 aboard the vessel "Flyer."

It appearing that by an order released March 10, 1960, the Hearing Examiner continued indefinitely the hearing in this proceeding previously scheduled for March 18, 1960; and

It further appearing that the indefinite continuance had been requested by the Commission's Safety and Special Radio Services Bureau following unsuccessful efforts to serve the abovenamed licensee with copies of the Commission's show cause order released January 8, 1960, and the Chief Hearing Examiner's order released January 13, 1960, designating time and place of hearing in this matter; and

¹ Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written state-ment stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this If the licensee fails to file an appearorder. ance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional in-formation, and shall request all opposing parties to file an answer to the written statement and/or additional information. record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

It further appearing that service of the aforementioned show cause order on the subject licensee was accomplished on April 4, 1960, and that on April 8, 1960, he wrote to the Commission's San Pedro, California field office apparently in reference to said order but failed to state whether he would appear at a hearing or desired to waive a hearing and submit a written statement in justification or mitigation for consideration by the Hearing Examiner; and

It further appearing that said licensee has failed to respond to a Commission communication sent him on May 4, 1960, requesting a statement as to whether he will appear at a hearing or waive a hearing and submit a written statement in mitigation or justification of the violations charged in the show cause order; and

It further appearing that in view of the events described above and of applicable provisions of § 1.62 of the Commission's rules, it is appropriate at this time to schedule a new hearing date so as to afford the licensee the opportunity to file with the Commission a written statement that he will appear at the specified time and place and present evidence;

Accordingly, on the Hearing Examiner's own motion: It is ordered, This 1st day of June 1960, that the hearing on the show cause order in this proceeding is hereby rescheduled for July 19, 1960, at 10:00 o'clock a.m., in the offices of the Commission, at Washington, D.C.

The attention of the licensee is again directed to the provisions of § 1.62 of the Commission's rules noted below concerning the filing of a written appearance, or waiver of hearing and submission of a statement in justification or mitigation to the Commission in Washington, D.C. Such written appearance

or other statement of the licensee may be filed within 30 days from the date of service of the instant order.

Released: June 2, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,

Acting Secretary.

[F.R. Doc. 60-5196; Filed, June 7, 1960; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP60-56]

MONTANA-DAKOTA UTILITIES CO.

Notice of Application and Date of Hearing

JUNE 2, 1960.

Take notice that on March 11, 1960, as supplemented on April 18, 1960, Montana-Dakota Utilities Company (Applicant), filed in Docket No. CP60-56 an application, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity, authorizing the construction and operation of certain natural gas facilities and the abandonment and salvage of certain other natural gas facilities, all as more fully set forth in the application, as supplemented, which is on file with the Commission and open to public inspection.

The facilities for which authorization is sought are:

- (1) Approximately 22.7 miles of 16-inch O.D. transmission pipeline to replace in the same location a 22.7 mile 12¾ inch segment of the Cabin Creek to Bismarck line, beginning at the Cabin Creek compressor station in Fallon County, Montana, and terminating at a point near Golva in Golden Valley County, North Dakota;
 (2) Approximately 7.0 miles of 10¾
- (2) Approximately 7.0 miles of 10% inch O.D. and 5.6 miles of 12% inch O.D. transmission pipeline to loop 12.6 miles of existing 12% inch line on the Cabin Creek to Bismarck line just west of Mandan in Morton County, North Dakota; (3) Approximately 15.9 miles of 12%
- (3) Approximately 15.9 miles of 12¾ inch O.D. transmission pipeline to loop 15.9 miles of existing 12¾ inch line on the Elk Basin to Billings line, all in Carbon County, Montana; and

(4) An additional 880 horsepower compressor unit and related facilities at the Cabin Creek compressor station in Fallon County, Montana.

The facilities to be abandoned consist of the 22.7 mile, 12¾ inch line which is to be replaced as indicated in Item (1) above, because of deterioration, and which is to be salvaged, reconditioned and re-utilized.

The purpose of the instant application is to provide increased capacity to serve estimated increasing future requirements on Applicant's system and to assure continuity of service on deteriorated sections of line which are to be looped.

The estimated cost of construction of the proposed facilities is \$1,732,000, to be defrayed from working capital, and the cost of retiring the facilities to be re-

placed is estimated at \$62,000, with a salvage value of \$156,000.

No new markets are proposed to be served.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on June 28, 1960, at 10:00 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by the application herein.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before June 21, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission of the intermediate decision procedure in cases where a request therefor is made.

MICHAEL J. FARRELL, Acting Secretary.

[F.R. Doc. 60-5155; Filed, June 7, 1960; 8:45 a.m.]

[Docket Nos. G-20570 etc.]

NORTHERN NATURAL GAS CO. AND MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Applications, Consolidation and Date of Hearing

JUNE 1, 1960.

Northern Natural Gas Co., Docket Nos. G-20570, G-20571 and G-18756; Michigan Wisconsin Pipe Line Co., Docket No. G-20572.

Take notice that: Northern Natural Gas Company (Northern), a Delaware corporation with principal place of business at 2223 Dodge Street, Omaha 1, Nebraska, filed in Docket No. G-20570 on December 30, 1959, as supplemented on February 12, 1960, March 3, 1960 and April 29, 1960, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act (Act), authorizing Northern to construct and operate pipeline and storage facilities and sell and deliver additional gas to its existing customers to meet their increased requirements for the 1960-61 heating season; additionally, Northern filed in Docket No. G-20571 on December 30, 1959, as supplemented on February 2, 1960, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Act, authorizing Northern to construct and operate facilities and sell and deliver an initial volume of gas to a new pipeline customer, Michigan Wisconsin Pipe Line Company; Northern also filed in Docket No. G-18756 on June 9, 1959, as supplemented on July 31, 1959 and September 16, 1959, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Act, authorizing Northern to construct and operate pipeline and storage facili-

¹ Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

ties and sell and deliver additional gas to its existing customers to meet their increased requirements for the 1959-60 heating season; Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), a Delaware corporation with principal place of business at 500 Griswold Street. Detroit 26, Michigan, filed in Docket No. G-20572, as supplemented on January 27, 1960, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Act, authorizing Michigan Wisconsin to construct and operate facilities and sell and deliver gas, proposed to be purchased from Northern, to its existing customers; all as hereinafter described, subject to the jurisdiction of the Commission, as more fully represented in the above-mentioned applications which are on file with the Commission and open for public inspection.

In Docket No. G-20570, Northern proposes to construct and operate, as an integral part of its existing natural-gas system, certain facilities, hereinafter described, and to sell for resale 1 in interstate commerce an additional contract demand volume totaling 78,552 Mcf 2 of gas per day to its existing customers to satisfy increased requirements anticipated and nominated by such customers for the 1960-61 heating season. Of the 73,792 Mcf of additional contract demand desired by Northern's customers, an increased volume of 40,000 Mcf per day has been requested by Northern Illinois Gas Company. Northern seeks authorization to construct and operate the following facilities in order to transport and deliver the additional 73,792 Mcf of gas:

103 miles of 24-inch and 30-inch main-line loops in Oklahoma, Kansas, Nebraska, and Iowa 17,360 horsepower of compressor additions at seven existing	\$10,081,900
stations	5, 390, 800
20.8 miles of branch-line loops	
in Iowa and Minnesota	473, 400
Additional measuring station	
for Rochester, Minn	29, 100
Interest and overheads	639,000

Total estimated cost (G-20570) _____ 16,614,200

In Docket No. G-20571, Northern proposes to construct and operate certain natural-gas facilities, hereinafter de-

scribed, to sell for resale in interstate commerce a contract demand volume of 75,000 Mcf per day to Michigan Wisconsin, a proposed new pipeline customer. To deliver the proposed \$75,000 Mcf per day to Michigan Wisconsin at a point near Janesville, Wisconsin, on Michigan Wisconsin's existing pipeline system, Northern proposes to construct and operate the facilities described below:

154 miles of 26 and 30-inch	
main-line loops in Kansas,	
Nebraska, and Iowa	\$15,057,600
82.5 miles of 20-inch main-line	
extension from East Dubuque,	
Ill., to Janesville, Wis., to con-	
nect Northern's system with	
that of Michigan Wisconsin	4, 967, 400
14,050 horsepower of compressor	
additions at Waterloo and	•
Ogden, Iowa, Palmyra and	
Beatrice, Nebr., and Mullin-	
ville, Kans	3, 881, 600
Sales measuring facilities at	
Janesville, Wis.	57, 300
Interest and overheads	958, 600
· ·	
Motol authorited cont	

Total estimated cost (G-20571) _____ 24,922,500

In Docket No. G-18756, Northern proposes to construct and operate certain facilities, hereinafter described, and to sell for resale in interstate commerce an additional contract demand volume totaling 29,423 Mcf³ of gas per day to its existing customers to satisfy increased requirements anticipated and nominated by such customers for the 1959-60 heat-

ing season.

On July 31, 1959, the Commission issued Opinion No. 324 in Northern Natural Gas Co., et al., Docket Nos. G-17485, et al., 22 F.P.C. 164. This opinion was issued between the time Northern filed its original application in Docket No. G-18756 and the time Northern filed its application for temporary authority in that docket. Among the main-line facilities authorized by the order accompanying Opinion No. 324 were those for which Northern had sought Commission approval in Docket No. G-18756. Consequently, in its application for temporary authority, Northern indicated that the only facilities then needed to deliver the additional contract demand requested by its existing customers for the 1959-60 heating season were those not theretofore authorized by the order accompanying Opinion No. 324:

19.9 miles of 10-inch pipeline (2d branch to Marshalltown, Iowa).	\$ 575, 500
2.5 miles of 3-inch branch-line loop to Griswold, Iowa	29, 600
shalltown, Iowa	42, 100 25, 900
Total estimated cost (G	

18756) _____ 673, 100

Paragraph (I) of the order accompanying Opinion No. 316 issued October 31, 1958, in American Louisiana Pipe Line Co., et al., Docket Nos. G-2306, et al., 20 F.P.C. 575, provided: "Northern's application in Docket No. G-2460, pertaining to Redfield Storage, is hereby denied * *". However, at page 598 of that opinion the Commission stated, "In accordance with the procedure we intend to follow in this case outlined previously, Northern may file a new application for Redfield Storage and seek to sustain this facility further on the basis of new and incorporated evidence. * * *" [Emphasis supplied.] In its applications in Docket Nos. G-18756 and G-20570, as supplemented, Northern has indicated that the 24,923 Mcf per day needed by its existing customers for the 1959-60 heating season and the 33,792 Mcf nominated by its existing customers (except Northern Illinois) for the 1960-61 heating season will be supplied during peak periods by utilizing the St. Peter-Elgin system of its Redfield underground storage field near Redfield, Iowa: Northern relies only upon its existing gas reserves and additional pipeline capacity to provide the 40,000 Mcf per day desired by Northern Illinois and the 75,000 Mcf per day requested by Michigan Wisconsin, as shown in the following tabulation:

Docket No.	Additional contract demand requested by—	Utiliza- tion of Redfield storage	Addi- tional pipeline capacity
G-18756 G-20570	Existing customers Existing customers (except Northern	Mcf 24, 923 33, 792	Mcf
G-20570 G-20571	Illinois). Northern Illinois Michigan Wisconsin.	None None	40, 000 75, 000
Total		58, 715	115,000

Northern states that the facilities for which authorization is sought in Docket No. G-18756 "* * will be financed out of funds on hand"; that the facilities required in Docket No. G-20570 will be financed "* * * by the issuance of \$6,-000,000 of debentures and \$10,000,000 of preferred stock"; and that the facilities required in Docket No. G-20571 will be financed "* * * by the issuance of \$18,000,000 of debentures and \$6,000,000 of preferred stock".

In Docket No. G-20572, Michigan Wisconsin proposes to construct and operate certain facilities, hereinafter described, and to sell for resale in interstate commerce an additional 75,000 Mcf of gas per day to its existing customers. Michigan Wisconsin states in its application

¹Except a volume of 2,383 Mcf per day desired by Northern's own distributing arm, Peoples National Gas Division, and gas required for the "Argus System"; the same kind of exception applies to the total additional contract demand specified in Northern's application in Docket No. G-18756.

^{*}Now 73,792 Mcf per day because of "* * * cutbacks of 4,340 Mcf by present customers of previous contract demand nominations for the 1960-61 heating season and an adjustment of 420 Mcf for equivalent contract demand applicable to the Argus System * * *", according to page 1 of third supplement filed April 29, 1960, in Docket No. G-20570.

³In its third supplement, filed April 29, 1960, to its application in Docket No. G-20570, Northern stated that the total increase in contract demand needed by its existing customers for the 1959-60 heating season had been reduced to 26,643 Mcf. Northern received temporary authorization on October 21, 1959, in Docket No. G-18756 to supply an increase in contract demand of 24,923 Mcf, i.e., the original increase requested of 29,423 Mcf less a volume of 4,500 Mcf no longer desired by Metropolitan Utilities District of Omaha.

that it will "* * * make a pro rata allocation, in accordance with Section 8 of the General Terms and Conditions of its FPC Gas Tariff, First Revised Volume No. 1 of the proposed additional • • • *** volumes of gas to be purchased from Northern pursuant to a letter agreement between Michigan Wisconsin and Northern dated November 16, 1959.

In order to deliver the additional gas to its existing customers, Michigan Wisconsin proposes to construct facilities, costing an estimated \$4,363,000, consisting of 29.2 miles of 30-inch main-line loop between its Compressor Station No. 10, located in northern Illinois, and its leased storage facilities in west central Michigan, and 3,000 horsepower of compression for installation at a new compressor station to be located at the terminus of Northern's proposed facilities near Janesville, Wisconsin, to be designated as Michigan Wisconsin's "Wisconsin D Station".

Michigan Wisconsin states in its application that the necessary facilities * * * will be financed initially with funds on hand. In 1961 it is contemplated that additional ten-year promissory notes in the amount of \$4,000,000

will be issued to permanently finance the proposed facilities".

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations, and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on Wednesday, July 6, 1960, at 10:00 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before June 24, 1960.

JOSEPH H. GUTRIDE. Secretary.

[F.R. Doc. 60-5156; Filed. June 7, 1960: 8:45 a.m.

[Docket No. RI60-866 etc.]

TEXACO INC., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates and Terminating Proceeding 1

JUNE 1, 1960.

Texaco Inc., Docket No. R160-366; Phillips Petroleum Company, Docket No. RI60-367; C. V. Lyman, Docket No. RI60-368; Lab Oil Company (Operator), et al., Docket No. RI60-369; Sun Oil Company, Docket No. RI60-370; Forest Oil Corporation, Docket No. RI60-371; General Crude Oil Company, Docket No. RI60-372; Willard E. Ferrell, Agent, Brushy Fork Development Company, Docket No. RI60-373; The Bradley Producing Corporation, Docket No. R160-374; Skelly Oil Company, Docket No. R160-375; Cosden Petroleum Corporation, Docket Nos. RI60-376, G-15408; Shell Oil Company, Docket No. RI60-377.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The prooosed changes are as follows:

				Notice of			Date sus-	¢ per Mcf		Rate in effect sub-	
Docket No.	Respondent	sched- ule No.	ment No.	Purchaser and producing area		Date tendered	date 1 un- less sus- pended	pended until—	Rate in effect	Proposed increased rate ²	ject to re- fund in docket Nos.
RI60-366	Texaco Inc	130	2	Tennessee Gas Transmission Co. (Magnolia City Field, Jim Wells County, Tex.).	Undated	5- 2-60	6- 2-60	11- 2-60	12.12268	17. 24347	
RI60-367	Phillips Petroleum Co.	2A	16	Texas Eastern Transmission Corp. (N. Port Neches Field, Orange County, Tex.).	4-29-60	5- 2-60	6- 2-60	11- 2-60	14.6	14.8	G-2025
RI60-368	C. V. Lyman	2	8	Tennessee Gas Transmission Co.	Undated	<i>5</i> - 2-60	6- 2-60	11- 2-60	11.90337	17.02416	
R160-369	Lab Oil Co. (Operator), et al.	1	2	es Counties, Tex.). Orange Grove Gas Gathering Co. (N.W. Orange Grove Field, Jim Wells County, Tex.).	4-30-60	5- 5-60	6- 5-60	6- 6-60	11.0	12.0	
RI60-870	Sun Oil Co	84 84	* 5 6	Northern Natural Gas Co. (West Perryton Field, Ochiltree County Tex.).	⁸ 4-12-60 4-26-60	5- 5-60 5- 5-60	6- 5-60 6- 5-60	11- 5-60 11- 5-60	15.5 15.5	16.5 16.5	
RI60-371	Forest Oil Corp	4	8	Tennessee Gas Transmission Co. (Brayton and Agua Dulca Fields.	5- 2-60	<i>5</i> - 5-60	6- 5-60	11- 5-60	14. 87589	17.02416	G-1986
RI60-372	General Orude Oil Co.	8	3	Nucces County, Tex.). West Lake Natural Gasoline Co. (Nena Lucia Field, Nolan County, Tex.).	5- 5-60	5- 9-60	6-23-60	• 6-24-60 -	6, 9918	8.5	G-2055
RI60-373	Willard E. Ferrell, Agent, Brushy Fork Development Co.	5	1	Equitable Gas Co. (Union District, Richie County, W. Va.).	5- 6-60	5- 9-60 _.	6- 9-60	11- 9-60	23.0	25.0	
RI60-374	The Bradley Produc- ing Corp.	1	4	Natural Gas Pipe Line Co. of America (Camrick Southeast Field, Beaver County, Okla.).	5 5-60	5- 9-60	6- 9 -60	11 9-60	16.6	16.8	G-2007
RI60-375	Skelly Oil Co	50	10	Cities Service Gas Co. (Hugston Field.	5- 4-60	5- 9-60	6- 9-60	11- 9-60	4 9. 8262 4 10. 8535	11.0 12.0273	
RI60-376	Cosden Petroleum Corp.	3	6 14	Texas County, Okla.). El Paso Natural Gas Co. (Spraberry Field, Reagan County Tex.).	5- 3-60 5- 3-60	5- 9-60 5- 9-60	6- 9-60 6- 9-60	11- 9-60 11- 9-60	10,0 10,0	17.0 17.0	
RI60-377			3	Field, Reagan County, Tex.). West Lake Natural Gasoline Co. (West Lake Trammel Field, Nolan County, Tex.).	5- 9-60	5-10-60	6-23-60	6-24-60	6. 9918	8.5	O-2028

¹ The stated effective dates are those requested by Respondents or the first day after the expiration of statutory notice, whichever is later.

² The rate of Willard E. Ferrell, Agent, Brushy Fork Development Co., is at a pressure base of 14.25 psia.

³ Supplement No. 5 is an amendatory agreement dated Apr. 12, 1960.

In support of its proposed favored-nation increased rate, Texaco Inc. cites a triggering increased price and states that the favored-nation provision of its contract is part of the integral pricing arrangement in its contract, which is designed partially to compensate for increasing costs. Texaco Inc. also cites a higher price being paid in the area.

In support of its proposed periodic increased rate, Phillips Petroleum Company (Phillips) cites its contract and states it was negotiated at arm's length. Phillips also states its proposed rate is less than the highest approved rate being collected in the area; in this connection, Phillips cites a rate which was accepted on the basis of submitted cost evidence.

In support of his proposed favored-nation increased rate, C. V. Lyman cites several sales certificated at higher rates and cites one of the cost of service exhibits in the proceeding in Docket No. G-9289.

In support of its proposed revenuesharing increased rate, Lab Oil Company

(Operator), et al. (Lab) cites an increase in the resale rate of its purchaser and states that Lab's proposed increased rate is necessary to recover costs and overcome the reductions in allowable production. Lab also states that higher prices are being received in the area.

⁴ Or until one day after the rate suspended in the proceeding in Docket No. R160-30 is made effective, if later.
4 Ungathered gas.
6 Gathered gas.

¹This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

^{*}Rate effective subject to refund in the proceeding in Docket No. G-19936.

In support of its proposed renegotiated increased rate, Sun Oil Company submits an amendatory agreement and states that the proposed rate provided therein was negotiated at arm's length and does not exceed the value of gas in the area.

In support of its proposed favorednation increased rate, Forest Oil Corporation (Forest) cites a triggering price and states that the favored-nation clause in its contract was an essential element of contractual consideration and was negotiated at arm's length. Forest also states that the proposed rate is in line with the going price of gas in the area.

In support of its proposed revenuesharing increased rate, General Crude Oil Company (General) cites its contract, a renegotiated resale rate of its purchaser, and the purchaser's agreement to share its increase. The purchaser's resale rate was suspended in the proceeding in Docket No. RI60-30 until June 23, 1960 and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

In support of his proposed renegotiated increased rate, Willard E. Ferrell, Agent, Brushy Fork Development Company, submits an amendatory agreement to his contract and states that the increased rate is necessary to meet increased expenses, as is recognized by the purchaser in the amendatory agreement.

In support of its proposed periodic increased rate, The Bradley Producing Corporation (Bradley) states that each contractual provision is part of one integral pricing arrangement previously submitted under the initial rate filing. Bradley also states that such pricing arrangements are common in long term contracts and are economically desirable to the buyer, seller, and public.

In support of its proposed renegotiated increased rates Skelly Oil Company (Skelly) cites a renegotiation agreement and states that the proposed rates were negotiated at arm's length. Skelly cites 11-cent rates being charged in the area. Skelly also states that on September 10, 1958, it agreed to the elimination of the favored-nation clause from its contract, depriving it of other opportunities for increased rates.

In support of its proposed renegotiated increased rates. Cosden Petroleum Corporation submits contract amendments. states that the favored-nation clauses were thereby eliminated from its contracts, states that the proposed rates are the offered price for gas in the area, and further states that the proposed rates are needed to compensate for increasing .costs. Cosden previously proposed increased rates under its rate schedules involved herein. The rates were suspended in the proceeding in Docket No. G-15408 but have never been made effective. Cosden's recent amendatory agreements and filings render the ineffective rate proposals moot, the proceeding in Docket No. G-15408 should therefore be terminated.

In support of its proposed revenuesharing increased rate, Shell Oil Company cites its contract, a renegotiated resale rate of its purchaser, and the pur-

chaser's agreement to share its increase. The purchaser's resale rate was suspended in the proceeding Docket No. RI60-30 until June 23, 1960 and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

The increased rates and charges so proposed may be unjust, unreasonable. unduly discriminatory, or preferential or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

(2) The proceeding in Docket No. G-15408 should be terminated.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed changes in rates and charges contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, each of the above-designated supplements is hereby suspended and the use thereof deferred until the date indicated in the above "Rate Suspended Until" column, plus footnotes thereto. and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) The proceeding in Docket No. G-15408 is hereby terminated.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before July 15, 1960.

By the Commission (Commissioner Kline dissenting).

[SEAL] MICHAEL J. FARRELL. Acting Secretary.

[F.R. Doc. 60-5157; Filed, June 7, 1960; 8:45 a.m.l

FEDERAL RESERVE SYSTEM

EASTERN TRUST AND BANKING CO.

Notice of Tentative Decision on Application for Prior Approval of Acquisition by a Bank Holding Company of Voting Shares of a Bank

Notice is hereby given that, pursuant to section 3(a) of the Bank Holding

Company Act of 1956, Eastern Trust and Banking Company, Bangor, Maine, a bank holding company, has applied for the Board's prior approval of the acquisition of up to 70 percent of the 2,000 outstanding voting shares of Guilford Trust Company, Guilford, Maine. Information relied upon by the Board in making its tentative decision is summarized in the Board's Tentative Statement 1 of this date, which is attached hercto and made a part hereof, and which is available for inspection at the Office of the Board's Secretary, at all Federal Reserve Banks, and at the Office of the Federal Register.

The record in this proceeding to date consists of the application, the Board's letter to the Bank Commissioner for the State of Maine inviting his views and recommendations on the application, the Commissioner's reply, this Notice of Tentative Decision, and the Tentative Statement.

For the reasons set forth in the Tentative Statement, the Board proposes to grant the application.

Notice is further given that any interested person may, not later than fifteen (15) days after the publication of this notice in the Federal Register, file with the Board in writing any comments upon or objections to the Board's proposed action. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington 25, D.C.

Following expiration of the said 15-day period, the Board's Tentative Decision will be made final by order to that effect, unless for good cause shown other action is deemed appropriate by the Board.

Dated at Washington, D.C., this 1st day of June 1960.

By order of the Board of Governors.

MERRITT SHERMAN, Secretary.

[F.R. Doc. 60-5158; Filed, June 7, 1960; 8:45 a.m.l

FOREIGN-TRADE ZONES BOARD

SEATTLE, WASHINGTON

Extension of Time for Permanent Relocation of Foreign-Trade Zone

Mr. H. M. Burke, General Manager, Port of Seattle, Seattle, Washington, as representative of the zone grantee, on April 26, 1960 advised the Foreign-Trade Zones Board of their inability to accomplish the permanent relocation of Foreign-Trade Zone No. 5 by the date established in Order No. 48, and requested an extension of time to December 31, 1961.

The Committee of Alternates has reviewed the circumstances in this case and unanimously recommend that the request for an extension of time from September 6, 1960 to December 31, 1961 be granted.

¹ Filed as part of the original document.

Upon consideration the Board concurs in the Committee's recommendation and hereby adopts the following resolution:

The Foreign-Trade Zones Board, after consideration of the request from the Port of Seattle Commission, Grantee, Foreign-Trade Zone No. 5 for an extension of time from September 6, 1960 to December 31, 1961 to permanently relocate the zone, approves the request.

The Executive Secretary of the Foreign-Trade Zones Boards is directed to incorporate this Memorandum, the letters from the Assistant Secretary of the Treasury, dated May 25, 1960, and Col. Carl H. Bronn, Army Member, Committee of Alternates, dated May 9, 1960, approving the foregoing Resolution in the official records of the Foreign-Trade Zones Board. The Executive Secretary will publish the foregoing Resolution in the Federal Register.

Dated: June 2, 1960.

[SEAL] FREDERICK H. MUELLER,

Secretary of Commerce, Chairman and Executive Officer

Foreign-Trade Zones Board.

[F.R. Doc. 60-5197; Filed, June 7, 1960; 8:51 a.m.]

INTERSTATE COMMERCE COMMISSION

[Rev. S.O. 562, Taylor's I.C.C. Order 118]

ANN ARBOR RAILROAD CO.

Rerouting and Diversion of Traffic

In the opinion of Charles W. Taylor, Agent, The Ann Arbor Railroad Company, account work stoppage affecting its car ferry service is unable to transport traffic offered it for movement via its car ferries.

It is ordered. That:

- (a) Rerouting traffic: The Ann Arbor Railroad Company, being unable to transport traffic offered for movement by its car ferries account work stoppage affecting its car ferry service is hereby authorized to divert and reroute such traffic over any available route to expedite the movement regardless of the routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.
- (b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroad before the rerouting or diversion is ordered.
- (c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.
- (d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which

were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree. said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 2:00 p.m., June 1, 1960.

(g) Expiration date: This order shall expire at 11:59 p.m., June 10, 1960, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 1, 1960.

INTERSTATE COMMERCE COMMISSION, CHARLES W. TAYLOR.

Agent.

[F.R. Doc. 60-5179; Filed, June 7, 1960; 8:49 a.m.]

[Notice 125]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 3, 1960

The following letter-notices of proposals to operate over deviation routes for operating convenience only with service at no intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 104004 (Deviation Notice No. 4), filed April 25, 1960. Applicant: ASSOCIATED TRANSPORT INC., 380 Madison Avenue, New York 17, N.Y.

Carrier proposes to operate as a common carrier, by motor vehicle of general commodities, with certain exceptions, over a deviation route as follows: From Buffalo, N.Y., over Inter-state Highway 190 to Niagara Falls, N.Y., and return over the same route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between the deviation points over New York Highways 384, 265, and 266, and U.S. Highway 62.

By the Commission.

[SEAL] HARO

HAROLD D. McCoy, Secretary.

[F.R. Doc. 60-5176; Filed, June 7, 1960; 8:48 a.m.]

[Notice 325]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 3, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 63160. By order of May 31, 1960, the Transfer Board approved the trænsfer to Homer H. Jackson, doing business as Jackson Trucking Company, Otsego, Mich., of Permits in Nos. MC 55885 and MC 55885 Sub 3, issued July 6, 1945, and February 16, 1949, respectively, to Edmund B. Arehart and Ann C. Arehart, a partnership, doing business as Arehart Trucking Company, Otsego. Mich., authorizing the transportation of: Paper and paper products, empty steel drums, supplies used by paper mills in the manufacture of paper, corn meal, animal or poultry feeds, rolled oats, fertilizer, farm products, scrap or waste paper, paper mill rolls, skids, covers for skids, and fresh and dried fruits and vegetables and empty containers, from, to, or between specified points in Michigan, Ohio, Indiana, Missouri, Kentucky, and Illinois. L. F. Richardson, 608 Michigan National Tower, Lansing, Mich.; for applicants.

No. MC-FC 63286. By order of May 31, 1960, the Transfer Board approved the transfer to D. W. Ramsay Motor Freight, Inc., Aberdeen, Washington, of Certificate in No. MC 4906, issued November 18, 1940, to D. W. Ramsay, doing business as D. W. Ramsay Motor Freight, Aberdeen, Wash., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities.

between Hoquiam, Wash., and Seattle, Wash. Ernest M. Ingram, Attorney at Law, 216 Becker Building, Aberdeen,

Wash., for applicants.

No. MC-FC 63287. By order of May 31, 1960, the Transfer Board approved the transfer to Holwick, Inc., 645 Vesper Street, Topeka, Kans., of Permit in No. MC 50348, issued February 26, 1959, to Mc 50348, issued February 26, 1959, to Mc Holwick, doing business as Holwick Heavy Hauling, 645 Vesper St., Topeka, Kansas, authorizing the transportation of: Building stone and heavy construction machinery and equipment between points in Kansas and Nebraska, and between Kansas City and St. Joseph, Mo., on the one hand, and, on the other, points in Kansas and Nebraska.

[SEAL]

HAROLD D. McCoy, Secretary.

[F.R. Doc. 60-5178; Filed, June 7, 1960; 8:48 a.m.]

[Notice 326]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JUNE 3, 1960.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209 and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings will be called at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time), unless otherwise specified.

Applications Assigned for Oral Hearing or Pre-Hearing Conference

MOTOR CARRIERS OF PROPERTY

No. MC 38317 (Sub-No. 2), filed May 11, 1960. Applicant: EDGAR P. HAR-RISON, doing business as CONLON WAREHOUSE, 134 Sterry Street, Pawtucket, R.I. Applicant's Practitioner: Russell B. Curnett, 49 Weybosset Street, Providence, R.I. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Boats, with or without boat parts, equipment and accessories thereof. on boat trailers, between points in Rhode Island, on the one hand, and, on the other, points in Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, North Carolina, New Hampshire, New Jersey, New York, Pennsylvania, South Carolina, Virginia, and Vermont.

HEARING: July 12, 1960, in Room 308, Main Post Office Building, Providence, R.I., before Examiner Richard H. Roberts.

No. MC 47158 (Sub No. 4), filed March 28, 1960. Applicant: MERCHANTS SERVICE TRUCKING, INC, P.O. Box 25, New London, Conn. Applicant's attorney: Francis E. Barrett, 7 Water Street, Boston 9, Mass. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities, ex-

cept those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, (a) between Groton, Conn., and the junction of Rhode Island Highway 3 and Interstate Highway 95 at or near Hopkinton, R.I.: from Groton over Interstate Highway 95 to junction Rhode Island Highway 3 at or near Hopkinton, R.I. and return over the same route. serving no intermediate points, and (b) between Providence, R.I., and Boston, Mass.: from Providence over U.S. Highway 1 to Boston, and return over the same route, serving no intermediate points, as alternate routes for operating convenience only, in connection with applicant's authorized regular route operations.

HEARING: July 13, 1960, at the New Post Office and Court House Building, Boston, Mass., before Joint Board No. 134, or, if the Joint Board waives its right to participate before Examiner Richard H. Roberts.

No. MC 52652 (Sub No. 3) (SECOND AMENDMENT), filed March 14, 1960, published in the FEDERAL REGISTER, issue of April 13, 1960, and republished issue of June 2, 1960. Applicant: LAWRENCE MOTOR LINES, INC., 21 South Mill Street, Haverhill, Mass. Applicant's attorney: Stanley J. Polak, 111 State Street, Boston 9, Mass. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes. transporting: Pulpboard, pulpboard products, and equipment, materials, and supplies used in the manufacture of pulphoard, except commodities in bulk, in tank or hopper vehicles, between Hampton, N.H., on the one hand, and, on the other, New York, N.Y., and points in New York and New Jersey within 30 miles of New York and points in New Hampshire. Maine, Massachusetts, Rhode Island, and Connecticut. Applicant states the proposed operations will be under continuing contracts with J. D. Cahill Co., Haverhill, Mass., and Continental Can Company, Inc., New York, N.Y.

Note: The purpose of this second republication is to reflect the addition of the abovenamed shipper, Continental Can Company, Inc.

HEARING: Remains as assigned, June 21, 1960, at the New Post Office and Court House Building, Boston, Mass., before Examiner Isadore Freidson.

No. MC 52869 (Sub No. 58) (SECOND AMENDMENT), filed March 3, 1960, published in the Federal Register, issues of May 11, 1960, and June 2, 1960. Applicant: NORTHERN TANK LINE, a Corporation, 8 South Seventh Street, Miles City, Mont. Applicant's attorney: Robert W. Burchmore, 2106 Field Building, Chicago 3, Ill. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products, in bulk, in tank vehicles, from points in Ward County, N. Dak. (including the city of Minot, N. Dak.), to points in South Dakota and Montana, and contaminated or refused products on return.

HEARING: Remains as assigned, July 20, 1960, at the North Dakota Public Service Commission, Bismarck, N. Dak, before Joint Board No. 143, or, if the Joint Board waives its right to participate, before Examiner Lyle C. Farmer.

No. MC 68715 (Sub No. 12), filed May 23, 1960. Applicant: SUMMIT FAST FREIGHT, INC., 1142 Newton Street, Akron, Ohio. Applicant's attorney: Sidney P. Upsher, 3000 West Reno, Oklahoma City, Okla. Authority sought to operate as a common carrier, by motor vehicle, transporting: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission. commodities in bulk, and those requiring special equipment, serving the site of the B.F. Goodrich Tire Company plant, located in Milan Township, Allen County, Ind., approximately eleven (11) to thirteen (13) air line miles from the city limits of Fort Wayne, Ind., on U.S. Highway 24 between County Roads Webster and Garver, as an off-route point in connection with applicants' authorized regular route operations to and from Fort Wayne, Ind.

HEARING: June 13, 1960, at the U.S. Court Rooms, Indianapolis, Ind., before Joint Board No. 72, or, if the Joint Board waives its right to participate, before Examiner Charles J. Murphy.

No. MC 68908 (Sub No. 5), filed April 11, 1960. Applicant: MULLEN BROS., INC., OF NORTH ADAMS, P.O. Box 586, 71 Grove Street, Adams, Mass. Applicant's attorney: Kenneth B. Williams, 111 State Street, Boston 9, Mass. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: New and used school furniture, uncrated, between North Adams, Mass. on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania.

HEARING: July 14, 1960, at the New Post Office and Court House Building, Boston, Mass., before Examiner Richard H. Roberts.

No. MC 76032 (Sub No. 155), filed May 9, 1960. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platt River Drive, Denver 23, Colo. Applicant's attorney: O. Russell Jones, Bokum Building, 142 West Palace Avenue, Santa Fe, N. Mex. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities, including Classes A, B, and C explosives, and shipper-owned gas trailers, loaded with compressed or liquefied gas (other than liquefied petroleum gas), or empty, and excepting commodities in bulk, commodities of unusual value, those requiring special equipment, and household goods as defined by the Commission, (1) between Carlsbad, N. Mex., and Jal, N. Mex.: from Carlsbad over U.S. Highway 285 to junction New Mexico Highway 128, and thence over New Mexico Highway 128 to Jal, and return over the same route, serving all intermediate points; (2) between Carlsbad, N. Mex., and Hobbs, N. Mex.: from Carlsbad over U.S. Highway 180 to Hobbs. and return over the same route, serving

all intermediate points; and (3) between Clines Corners, N. Mex., and Roswell, N. Mex.: from Clines Corners over U.S. Highway 285 to Roswell, and return over the same route, serving all intermediate points.

HEARING: July 25, 1960, at the New Mexico State Corporation Commission, Santa Fe, N. Mex., before Joint Board No. 87.

No. MC 102799 (Sub No. 4) (COR-RECTION), filed April 26, 1960, published in the Federal Register, issue of May 25, 1960. Applicant: PACKAGE MESSENGERS, INC., 2939 West Page Street, Philadelphia 21, Pa. Applicant's attorney: Paul F. Barnes, 811–819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. The above docket number is the correct number assigned to the application. The previous issue of the Federal Register incorrectly designated the docket number as MC 10279 (Sub No. 4).

HEARING: Remains as assigned, July 15, 1960, at the Penn Sherwood Hotel, 3900 Chestnut Street, Philadelphia, Pa.,

before Examiner Leo A. Riegel.

No. MC 107107 (Sub No. 142) (RE-PUBLICATION), filed February 4, 1960, published in the FEDERAL REGISTER, issue of February 25, 1960. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 65, Allapattah Station, Miami 42, Fla. Applicant's attorney: Frank B. Hand, Jr., Transportation Building, Washington, D.C. By application filed February 4, 1960, carrier sought a Certificate of Public Convenience and Necessity authorizing operations in interstate or foreign commerce, as a common carrier, by motor vehicle, of fresh and processed nuts, and peanut butter, from Boykins, Va., to points in Florida, over irregular routes. At the hearing evidence adduced revealed that applicant would transport peanut bars. It is questionable whether the peanut bars come within the commodity description set forth in the application as filed and published in the FEDERAL REGISTER. Accordingly, it is concluded that the authority actually desired, and for which a need was found as set forth in the findings of Examiner William P. Sullivan, served May 5, 1960, should be set forth in this republication, and the issuance of a Certificate of Public Convenience and Necessity withheld for a period of at least 30 days from the date of this republication in the FEDERAL REGISTER, during which time any person or persons who might have been prejudiced by the failure of the first published notice to specifically set forth the transportation of peanut bars to file an appropriate pleading. The operations authorized in the Report and Order dated May 5, 1960. on compliance with certain conditions, are as follows: Fresh and processed nuts. peanut butter, and peanut bars, over irregular routes, from Boykins, Va., to points in Florida.

No. MC 107515 (Sub No. 350) (AMENDED), filed April 1, 1960, published Federal Register issue of May 11, 1960. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta 10, Ga. Applicant's

attorney: Paul M. Daniell, 214 Grant Building, Atlanta 3, Ga. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods, prepared dough, meats, meat products, and meat by-products, and dairy products, as defined by the Commission, from points in Texas to points in Mississippi, Louisiana, and Tennessee. RESTRICTION: Service to points in Mississippi, Louisiana, and Memphis, Tenn., restricted to partial delivery in instances where there is a subsequent partial delivery in either the States of Alabama, Georgia, Florida, North Carolina, South Carolina, or Tennessee.

Note: Dual operations under section 210 may be involved. The purpose of this republication is to reflect authority as sought to all points in Tennessee, except as restricted above.

HEARING: Remains as assigned: July 13, 1960, at the Baker Hotel, Dallas, Tex., before Examiner James H. Gaffney.

No. 112963 (Sub No. 5), filed May 5, 1960. Applicant: ROY BROS., INC., Boston Road, Pinehurst, Mass. Applicant's attorney: S. Harrison Kahn, 1110-14 Investment Building, Washington, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid and dry commodities, in bulk, in tank vehicles, between Lowell, Mass., and Endicott, N.Y.

HEARING: July 19, 1960, at the New Post Office and Court House Building, Boston, Mass., before Examiner Richard H. Roberts.

No. MC 113388 (Sub No. 28), filed May 16, 1960. Applicant: LESTER C. NEWTON TRUCKING COMPANY, a corporation, Bridgeville, Del. Applicant's attorney: H. Charles Ephraim, 1001 15th Street NW., Washington 5, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, and Meat By-Products from Wilmington, Del., to points in Maryland, Delaware, Virginia, and North Carolina.

HEARING: July 12, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner John B. Mealy.

No. MC 115691 (Sub No. 11) (Correction), filed April 11, 1960, published in the FEDERAL REGISTER issue of May 25, 1960. Applicant: R. J. COKER, doing business as COKER TRUCKING COM-PANY, P.O. Box 398, Demopolis, Ala. Applicant's attorney: H. A. Lloyd, Lloyd and Dinning Building, Demopolis, Ala. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Conduit and pipe, in flat bed trailers, and fittings and attachments for such conduit and pipe, from Glen Dale, Marshall County, W. Va., to points in Georgia, Florida, Alabama, Arkansas, Louisiana, and Mississippi, and damaged or defective shipments of the above-described commodities, on return.

Note: The subject application is assigned for hearing July FIRST, as shown below. Previous publication indicated July 11th in error.

HEARING: July 1, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James A. McKiel.

No. MC 117562 (Sub No. 5), filed April 22, 1960. Applicant: RAYMOND MERCHANT, GERALDINE AUDREY MERCHANT, ADMINISTRATRIX, Chamcook, Charlotte County, New Brunswick, Canada. Applicant's attorney: Francis E. Barrett, 7 Water Street, Boston 9, Mass. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Heating equipment and accessories, moving in connection therewith, from Pompton Plains, N.J., to the port of entry on the International Boundary line between the United States and Canada, at or near Calais, Maine.

HEARING: July 27, 1960, at the Federal Building, Portland, Maine, before Examiner Richard H. Roberts.

No. MC 117562 (Sub No. 6), filed April 22, 1960. Applicant: RAYMOND MERCHANT, GERALDINE AUDREY MERCHANT, ADMINISTRATRIX, Chamcook, Charlotte County, New Brunswick, Canada. Applicant's attorney: Francis E. Barrett, 7 Water Street, Boston 9, Mass. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Wooden building materials, from Boston, North Wilmington, Waltham and Worcester, Mass., Portsmouth, R.I., and Albany, N.Y., to the port of entry on the International Boundary between the United States and Canada at or near Calais, Maine.

HEARING: July 28, 1960, at the Federal Building, Portland, Maine, before Examiner Richard H. Roberts.

No. MC 118169 (Sub No. 1), filed April 15, 1960. Applicant: SEPTIMUS J. MacPHEE, doing business as MacPHEE'S TRANSFER, Souris, Prince Edward Island, Canada. Applicant's attorney: Francis E. Barrett, Jr., 7 Water Street, Boston 9, Mass. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Corrugated fish cartons and waxed fish paper (overwraps), from Boston and Gloucester, Mass., to the International boundary between the United States and Canada at or near Calais, Maine.

HEARING: July 27, 1960, at the Federal Building, Portland, Maine, before Joint Board No. 69, or, if the Joint Board waives its right to participate before Examiner Richard H. Robert.

No. MC 118438 (Sub No. 3), filed April 18, 1960. Applicant: MANUEL O. CORDEIRO, doing business as PORTS-MOUTH TRANSPORTATION, HOMING AND RACING PIGEONS, 2372 East Main Road, Portsmouth, R.I. Applicant's attorney: Vernon A. Harvey 185 Thames Street, Newport, R.I. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Homing and racing pigeons, from points in Massachusetts on the east of U.S. Highway 1 extending from Boston to the Massachusetts-Rhode Island State line in Attleboro, Mass., and those in Rhode Island, to Huntington, Pittsfield, Southbridge, and

Westfield, Mass., Albany, Auburn, Depew, East Buffalo, Herkimer, Little Falls, Lyons, and Syracuse, N.Y., Ashtabula and Sandusky, Ohio, Putnam, Conn., and points in Rhode Island, and empty containers or other such incidental facilities used in transporting the above-commodities, on return.

HEARING: July 11, 1960, in Room 308, Main Post Office Building, Providence, R.I., before Examiner Richard H. Roberts.

No. MC 118912 (Sub No. 4), filed April 20, 1960. Applicant: BURNHAM TRUCKING CO., INC., 52 Fletcher Street, Ayer, Mass. Applicant's attorney: Raymond E. Bernard, 53 State Street, Boston 9, Mass. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Pin setter machines, bowling alley, automatic (set up loose) from Littleton, Maynard, Westford, Hudson, Ayer, and Everett, Mass. to points in New York, New Jersey, Delaware, Ohio, Michigan, West Virginia, South Carolina, and Georgia, and automatic bowling machines, used and disassembled, from the above-specified destination points, to the above-specified origin points.

Note: Applicant states the proposed operations will be for the account of Bowl-Mor Company, Inc.

HEARING: July 18, 1960, at the New Post Office and Court House Building, Boston, Mass., before Examiner Richard H. Roberts.

No. MC 119552, filed March 1, 1960. Applicant: RICHARD J. SNOW & SONS, INC., Putnam Pike, Harmony, R.I. Applicant's representative: Russell B. Curnett, 49 Weybosset Street, Providence, R.I. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, (1) between Attleboro, Mass., East Providence, Pawtucket and Providence, R.I., and Greenville, Ohio, and (2) from points in Illinois. Michigan, Ohio, Pennsylvania, Indiana to Attleboro, Mass., Pawtucket, East Providence, and Providence, R.I.

Note: Applicant states that the proposed operations will serve only the Fram Corporation, 105 Pawtucket Avenue, East Providence, R.I., under the proposed contract carrier permit.

HEARING: July 11, 1960, in Room 308, Main Post Office Building, Providence, R.I., before Examiner Richard H. Roberts.

No. MC 119637, filed March 30, 1960. Applicant: SILVER BROS. CO., INC., 177 Granite Street, Manchester, N.H. Applicant's attorney: G. Marshall Abbey, Forty Stark Street, Manchester, N.H. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Syrups, and carbonated non-alcoholic beverages, in bottles and cans, and supplies and materials used in their manufacture, between Manchester, N.H., and (1) points in the New York, N.Y., Commercial

Zone and Troy, N.Y., (2) Perth Amboy, Newark, Passaic and Guttenburg, N.J., (3) points in the Boston, Mass., Commercial Zone and Springfield and Mariboro, Mass., (4) Portland and Lewiston, Maine, (5) Providence, R.I., and (6) New Haven and Hartford, Conn.

HEARING: July 25, 1960, at the New Hampshire Public Service Commission, Concord, N.H., before Examiner Richard H. Roberts.

No. MC 119653, filed April 7, 1960. Applicant: WILLIAM WEEMER, 1111 Washington Street, Walpole, Mass. Applicant's attorney: Mary E. Kelley, 10 Tremont Street, Boston 8, Mass. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Waste paper, rags and related commodities for salvage, between points in Massachusetts, on the one hand, and, on the other, points in Connecticut, Rhode Island, and New York.

Note: Applicant states the proposed transportation is for the Graham Corporation and P. Shaffer & Co., Inc.

HEARING: July 19, 1960, at the New Post Office and Court House Building, Boston, Mass., before Examiner Richard H. Roberts.

No. MC 119807, filed May 23, 1960. Applicant: THOMAS J. RODRIQUES, doing business as TOM'S SERVICE STATION, 753 East Main Road, Middletown, R.I. Applicant's representative: Russell B. Curnett, 49 Weybosset Street, Providence, R.I. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) wrecked or disabled motor vehicles, other than trailers designed to be drawn by passenger automobiles. by the truckaway method using only wrecker equipment, and (2) repossessed motor vehicles, by the truckaway or driveaway methods, using only wrecker equipment to render the truckaway service, between points in Rhode Island, on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

HEARING: July 12, 1960, in Room 308, Main Post Office Building, Providence, R.I., before Examiner Richard H. Roberts.

MOTOR CARRIERS OF PASSENGERS

No. MC 119429 (Sub No. 1), filed April 12, 1960. Applicant: TRANSIT BUS LINE, INC., 17 Bowker Street, Walpole, Mass. Applicant's attorney: Francis X. Dalton, 713-716 Barristers Hall, Boston 8, Mass. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: Passengers, and express, mail, newspapers and baggage in the same vehicle with passengers, between Boston, Mass. (the MTA Elevated-Surface Station in Forest Hills, Boston Suffolk County), and Woonsocket, R.I.: from Forest Hills over Washington Street, known as the Truck Route, through that part of Boston called Roslindale and the Town of Dedham, Norfolk County, to join Route 1A at Dedham, thence through the Towns of Westwood (Islington Section), Norwood and Walpole on Route 1A, all in Norfolk County, Mass., thence from Walpole over West Street to the Walpole-Norfolk Town Line (Norfolk County, Mass.), and thence via Main Street and past the Massachusetts Correctional Institution to the Norfolk Franklin Town Line (Norfolk County, Mass.), thence over divers streets in Franklin, including Payne Street, and continuing to the Bellingham, Mass.-Woonsocket, R.I., State line, to Vermette's Corner, located on Route 11 in the State of Rhode Island and thence continuing along Route 11 to the Walnut Hill (Commercial and Shopping Center Plaza), situated in Woonsocket, R.I., and terminating at that point namely, Walnut Hill (Commercial and Shopping Center) Plaza, Woonsocket, R.I., and return over the same route, serving all intermediate points.

HEARING: July 14, 1960, at the New Post Office and Court House Buildings, Boston, Mass., before Joint Board No. 18, or, if the Joint Board waives its right to participate, before Examiner Richard H. Roberts.

No. MC 119644, filed April 4, 1960. Applicant: GORDON S. MUNROE, doing business as MUNROE BUS SERV-ICE, Main Street, Hempstead, N.H. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: Passengers and their baggage, in the same vehicle with passengers, Between Danville, Hampstead, Atkinson, and Plaistow, N.H., and North Andover, Mass., as follows: (1) From Danville over New Hampshire Highway 111 to the intersection of Central Street and Emerson Avenue in Hampstead: (2) From junction New Hampshire Highways 121A and 111 in Hampstead over New Hampshire Highway 111 to junction New Hampshire Highway 121; (3) From junction New Hampshire Highways 121A and 125 over New Hampshire Highway 121A to junction New Hampshire Highway 111; (4) From Hampstead over New Hampshire Highway 121 to Atkinson; (5) From Academy Avenue and East Road in Plaistow to junction Emerson Avenue: and (6) From Plaistow over New Hampshire Highway 125 to North Andover, and return over the above routes, serving all intermediate points.

HEARING: July 26, 1960, at the New Hampshire Public Service Commission, Concord, N.H., before Joint Board No. 20, or, if the Joint Board waives its right to participate before Examiner Richard H. Roberts

APPLICATION FOR BROKERAGE LICENSE

MOTOR CARRIER OF PASSENGERS

No. MC 12733, filed May 9, 1960. Applicant: BESSIE BORKOWICZ, doing business as CHEER CLUB, 2808 South Ninth Place, Milwaukee 15, Wis. Authority sought to operate as a BROKER (BMC 5), at Milwaukee, Wis., in arranging for transportation in interstate or foreign commerce by motor vehicle, of: Passengers, from Milwaukee, Wis., to points in Illinois, and return.

HEARING: July 22, 1960, at the Hotel Schroeder, Milwaukee, Wis., before Joint Board No. 96, or, if the Joint Board

waives its right to participate, before Highway 3, thence east over Iowa Highway 3, approximately 3 miles, to Edge-

APPLICATIONS IN WHICH HANDLING WITH-OUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 3083 (Sub No. 34), filed May 26, 1960. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, 277 Monroe Avenue, P.O. Box 66, Memphis 3, Tenn. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Coin, currency, and negotiable securities, in armored vehicles, escorted by armed guards, between Charlotte, N.C., on the one hand, and, on the other, points in Florence, Marion, Dillon, Lee, Darlington, Marlboro, Williamsburg, Sumter, Clarendon, Kershaw, Chesterfield, Oconee. Pickens, Greenville, Spartanburg, Cherokee, York, Lancaster, Chester, Union, Laurens, Anderson, Abbeville, Greenwood, Newberry, Fairfield, Richland, Lexington, Saluda, McCormick, Edgefield, and Aiken Counties, S.C.

Note: Applicant states in the event this application is granted it will relinquish its present authority in Permit No. MC 3083 (Sub No. 29) as no duplication of authority is sought.

Nó. MC 30319 (Sub No. 116), filed May 16, 1960. Applicant: SOUTHERN PA-CIFIC TRANSPORT COMPANY, a Corporation, 810 North San Jacinto Street (P.O. Box 4054), Houston, Tex. Applicant's attorney: Edwin N. Bell, Baker, Botts, Andrews, and Shepherd, 1600 Esperson Building, Houston 2, Tex. Authority sought to operate as a common carrier, by motor vehicle, over a regular route, transporting: General commodities, except those of unusual value. Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Falls City, Tex., and the new uranium plant site, located approximately ten (10) miles southwest of Falls City, Tex., over Texas Farm Road 791 and unnumbered road, serving no intermediate or off-route points between the termini.

Note: Common control may be involved.

No. MC 66562 (Sub No. 1677), filed May 14, 1960. Applicant RAILWAY EX-PRESS AGENCY, INCORPORATED, Principal Office: 219 East 42d Street, New York 17, N.Y. Local Office: 1004 Farnam Street, Omaha 2, Nebr. Authority sought to operate as a common carrier, by motor vehicle, over a regular route, transporting: General commodities, including Classes A and B explosives, moving in express service, between Cedar Rapids, Iowa and Waucoma, Iowa, from Cedar Rapids northeast approximately 14 miles over U.S. Highway 151 to Springville, Iowa, thence continue over U.S. Highway 151 via Anamosa, Iowa to Monticello, Iowa, thence north and west over Iowa Highway 38 via Hopkinton, Iowa to junction U.S. Highway 20, thence west over U.S. Highway 20, approximately 6 miles, to Manchester, Iowa, thence north over Iowa Highway 13, approximately 11 miles, to junction Iowa

way 3, approximately 3 miles, to Edgewood, Iowa, thence return over Iowa Highway 3 approximately 3 miles, and continue over Iowa Highway 3 approximately 6 miles, to Strawberry Point, Iowa, thence continue over Iowa Highway 3 approximately 6 miles, to junction Iowa Highway 154, thence northwest over Iowa Highway 154 to junction Iowa Highway 150, thence north over Iowa Highway 150 to Fayette, Iowa, thence continue over Iowa Highway 150, approximately 9 miles, to junction U.S. Highway 18, thence west over U.S. Highway 18, approximately 7 miles, to junction Iowa Highway 102, thence south, approximately 2 miles, over U.S. Highway 102 to Hawkeye, Iowa, thence return over Iowa Highway 102, approximately 2 miles, to junction U.S. Highway 18, thence west over U.S. Highway 18. approximately 5 miles, to junction Iowa Highway 193, thence north over Iowa Highway 193, approximately 6 miles, to Waucoma, and return over the same route, serving the intermediate points of Springville, Anamosa, Monticello, Hopkinton, Manchester, Edgewood, Strawberry Point, Arlington, Fayette, and Hawkeye, Iowa. RESTRICTION: (1) The service to be performed by the applicant for which authority is being applied, will be limited to such as is auxiliary to or supplemental of rail or air express service; and (2) Shipments transported under this authorization will, in addition to a motor carrier movement, be subject to a prior or subsequent movement by rail or air.

Note: Applicant requests authority to tack the above authority to Docket No. MC 66562 (Sub No. 1622) at Cedar Rapids, Iowa, to enable it to transfer traffic between the proposed route and the Clinton, Iowa to Omaha, Nebr., route in either direction from either route. Applicant states that shipments to be transported shall be limited to those moving on a through bill of lading or express receipt, covering in addition to a motor carrier movement by it a prior or subsequent movement by air or rail.

No. MC 66562 (Sub No. 1681), filed May 19, 1960. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED. Principal Office: 219 East 42d Street, New York 17, N.Y. Local Office: 275 East Fourth Street, St. Paul 1, Minn. Authority sought to operate as a common carrier, by motor vehicle, over a regular route, transporting: General commodities, including Classes A and B explosives, moving in express service, between Mankato, Minn., and Elmore, Minn., from Mankato west and south over Minnesota Highway 60, a distance of approximately 12 miles, to junction Blue Earth County Road 9, thence south and east over Blue Earth County Road 9, a distance of approximately 9 miles. to junction U.S. Highway 169, thence south over U.S. Highway 169, a distance of approximately 39 miles, to Elmore, and return over the same route, serving the intermediate point of Amboy, Minn.

No. MC 66562 (Sub No. 1682), filed May 27, 1960. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorneys: Mehaffy, Smith, and Williams, Boyle Building, Little Rock,

Ark. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities, including Class A and B explosives, moving in express service, between Little Rock, Ark., and Clarksville, Ark.: from Little Rock, over U.S. Highway 65 to the intersection of U.S. Highway 64 thence over U.S. Highway 64 to Clarksville, a distance of 104 miles and return over the same route, serving theintermediate points of Conway, Morrilton, Atkins, and Russellville, Ark. RE-STRICTIONS: The service to be performed will be limited to those moving on a through bill of lading or express receipt covering, in addition to a motor carrier movement by said carrier, an immediately prior or immediately subsequent movement by air or rail.

No. MC 66562 (Sub No. 1684), filed May 31, 1960. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorneys: Slovacek and Galliani, Suite 2800, 188 Randolph Tower, Chicago 1, Ill. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities, including Class A and B explosives, moving in express service, between La Crosse, Wis., and Austin, Minn.: from La Crosse, west on U.S. Highway 16 to Austin, thence return over the same highway to junction with U.S. Highway 52, thence south on U.S. Highway 52 to junction with Minnesota Highway 44, thence east and northerly on Minnesota Highway 44 to junction with U.S. Highway 16, thence east to La Crosse, Wis., and return over the same route serving the intermediate points of La Crescent, Hokah, Houston, Rushford, Peterson, Lanesboro, Preston, Wykoff, Spring Valley, Grand Meadow, Dexter, Harmony, Canton, Mabel, Spring Grove and Caledonia, Minn. RESTRIC-TIONS: The service to be performed by applicant under the authorization sought herein will be limited to such as is auxiliary to or supplemental of rail or air express service. Shipments to be transported shall be limited to those moving on a through bill of lading or express receipt.

No. MC 72442 (Sub-No. 12), filed May 26. 1960. Applicant: AKERS MOTOR LINES, INCORPORATED, Post Office Box 79, New Hope Road, Gastonia, N.C. Applicant's attorney: Donald E. Cross, Munsey Building, Washington 4, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Gastonia, N.C., and points within 25 miles thereof, on the one hand, and, on the other, points in South Carolina.

Note: Applicant presently has regular route authority to serve off-route points in North Carolina within 25 miles of Gastonia.

No. MC 108080 (Sub No. 2) filed May 25, 1960. Applicant: CLAUDE S. REED (Md. Route No. 30), RFD No. 1, Manchester, Md. Applicant's representative: Donald E. Freeman, Uniontown

Road, Box 24, Westminster, Md. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Silos and parts and accessories thereof, from White Marsh, Md., to points in Connecticut, Massachusetts, New Hampshire; New York, Rhode Island, and Vermont.

Note: Applicant states that the proposed operations will be under continuing contract or contracts with American-Marietta Company, White Marsh, Md., and Michigan Silo Company, White Marsh, Md.

No. MC 109451 (Sub No. 115), filed May 26, 1960. Applicant: ECOFF TRUCKING, INC., 112 Merrill Street, Fortville, Ind. Applicant's attorney; Robert C. Smith, 512 Illinois Building, Indianapolis, Ind. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Denatured alcohol, in bulk, in tank vehicles, from Ficklin, Ill., to Bridgeville, Pa., and damaged or rejected shipments, on return.

Note: A proceeding has been instituted under section 212(c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier in No. MC 109451 (Sub No. 82).

No. MC 111227 (Sub No. 2) filed May 25, 1960. Applicant: LESTER EVER-SOLE, doing business as LESTER EVER-SOLE TRUCKING CO., 320 Laurel Avenue, Hazard, Ky. Applicant's attorney: Ollie L. Merchant, 715 Louisville Trust Building, Louisville, Ky. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Films, advertising matter and supplies for motion picture theaters, between Cincinnati, Ohio, and points in Powell and Wolfe Counties, Ky.

No. MC 119812, filed May 25, 1960, Applicant: CAPITOL DELIVERY SERV-ICE, INC., 202 North 19th Street, Omaha, Nebr. Applicant's attorney: Jack W. Marer, Omaha National Bank Building, Omaha 2, Nebr. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. between Omaha, Nebr., and points in Harrison, Pottawattamie, Mills, Montgomery, Shelby, and Fremont Counties, Iowa.

Note: Applicant states the proposed operation will be for Sears, Roebuck and Co.

PETITIONS

Nos. MC-83539, Subs 7, 9, 12, 13, 14, 17, 30 and MC-109770, now leased under authority issued in MC-F-7115, (PETITION FOR INTERPRETATION OF CERTIFICATES), dated May 23, 1960. Petitioner: C & H TRANSPORTATION CO., INC., Dallas, Tex. Petitioner's attorney: W. T. Brunson, 508 Leonhardt Building, Oklahoma City 2, Okla. The Certificates which are the subject of this petition are as follows: (1) MC-83539, Sub 7, Commodities, the transportation of which because of their size or weight require the use of special equipment, from Beloit, Milwaukee, Racine, Wauke-

sha, and West Allis, Wisconsin, TO points in Arkansas, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas, with no transportation for compensation on return except as otherwise authorized. FROM Houston, Texas, New Orleans, Louisiana, and Oklahoma TO Beloit, Manitowoc, Milwaukee, Racine, and Two Rivers, Wisconsin, with no transportation on return except as otherwise authorized. (2) MC-83539 Sub 9, Commodities other than those described above, the transportation of which, by reason of size or weight, requires the use of special equipment, BETWEEN points in Texas and Oklahoma, on the one hand, and, on the other, points in North Dakota, South Dakota, and Wisconsin, except from Beloit, Milwaukee. Racine, Waukesha, and West Allis, Wisconsin, to points in Texas and Oklahoma, AND FROM Houston, Texas, and Oklahoma City, Oklahoma, TO Beloit, Manitowoc, Racine, and Two Rivers, (3) MC-83539 Sub 13, Wisconsin Commodities, which because of their size or weight require the use of special equipment, and parts thereof when moved in connection with such commodities. BETWEEN points in that part of Texas on and north of U.S. Highway 80 from the Texas-Louisiana State line through Marshall, Dallas, and Fort Worth to Mineral Wells, Texas, and, on and east of U.S. Highway 281 from Mineral Wells through Wichita Falls to the Texas-Oklahoma State Line, on the one hand, and, on the other, points in Colorado, Nebraska and Missouri. (4) MC-83539 Sub 14, Heavy Machinery, heavy machinery parts, and commodities other than heavy machinery, the transportation of which because of size or weight require the use of special equipment, and parts of such commodities when moving in connection therewith, BETWEEN points in Kansas, New Mexico, Texas, Oklahoma and Louisiana. BETWEEN points in New Mexico, Texas, and Oklahoma, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Mississippi, and Arkansas. BETWEEN points in Illinois, Indiana, Kentucky, Mississippi and Arkansas. RESTRICTION: The service authorized hereinabove is subject to the following restrictions: Heavy machinery parts which are not transported with the machinery of which they are a part or on which they are to be installed, shall not be transported between points in Illinois, on the one hand, and, on the other, points in Mississippi and Louisiana and those in Arkansas on U.S. Highway 61. (5) MC-83539 Sub 17, Commodities, other than those described above, the transportation of which, because of their size or weight, require the use of special equipment, and parts thereof, when moving in connection with such commodities, FROM points in Arkansas, Illinois, Kansas, Louisiana, Mississippi, Oklahoma, and Texas TO Oil City and Braddock, Pennsylvania, with no transportation for compensation on return except as otherwise authorized. (6) MC-83539 Sub 30, (c) Commodities, the transportation of which, because of size or weight, require the use of special equipment (except the stringing and

picking up of pipe in connection with main or trunk pipelines); and, (d) Parts of commodities described in (c) above when moving with such commodities, BETWEEN points in Texas, on the one hand, and, on the other, points in Oregon and Washington. Restrictions: The authority granted herein is restricted against tacking of the authority to transport the items specified in (c) and (d) above, and of which have an origin or destination at points in Illinois, Indiana. and Ohio, with any other authority now held by carrier for the purpose of providing a through service. (7) MC109770, MC-F-7115, LEASE-PARTIAL, SEC-TION 210a(b), Heavy or cumbersome commodities, which, because of size or weight, require the use of special equipment, BETWEEN Seagraves, Texas, and points in Texas within 250 miles of Seagraves and those in that part of Texas north of U.S. Highway 80 and west of U.S. Highway 75 beyond such 250 mile radius, including points on the indicated portions of the highways specified, on the one hand, and, on the other, points in Arizona. Petitioner prays (1) that the Commission enter an order interpreting the above Certificates so as to authorize the transportation of conduit or pipe, in pallets, and attachments, parts and fittings for conduit or pipe, when moving in connection therewith from Denison, Texas, to points in the authorized territory, or, in the alternative (2) that if the above relief cannot be immediately granted, that the Commission enter a formal or informal order directing its agents, officers, servants and employees to refrain from interfering with the continued transportation by petitioner, or pending formal hearing of this petition and issuance of a final order. Any person or persons desiring to oppose the relief sought may, within 30 days from the date of this publication in the FEDERAL REGISTER, file an appropriate pleading.

No. MC 114529 (SUPPLEMENTAL PETITION FOR DEFINITION OF TRUCKLOADS AND PETITION FOR REOPENING AND ELIMINATION OF TRUCKLOAD RESTRICTION, AND ENTRY OF AN ORDER AUTHORIZING THROUGH SERVICE, ANY QUANTITY, LESS-THAN-TRUCKLOAD, AND TRUCKLOADS, AND ELIMINATION OF GATEWAYS), filed October 7, 1958. Petitioner: TRAVELERS MOTOR FREIGHT, INC., Wheeling, W. Va. Petitioner's attorney: John R. Meeks, 607 Copley Road, Akron 20, Ohio. Certificate No. MC 114529, dated March 13, 1958, authorizes the transportation, among other things, which is here pertinent, of: General commodities, with exceptions, in truckloads only, between points in Marshall County, W. Va., on the one hand, and, on the other, Philadelphia, Pa., points in Ohio, and specified points in Pennsylvania. The subject petition prays the Commission (1) to reopen and reconsider this proceeding and an underlying "Grandfather" proceeding, and if necessary, assign them for further hearing, (2) to define just what was contemplated by "Truckloads only" as incorporated in the instant Certificate, (3) to eliminate that restriction,

and (4) to determine the scope and extent of petitioner's predecessor's operations prior to, on, and since June 1, 1935, with respect to (a) less-than-truckload shipments and (b) so-called base points or gateways, if any, which were observed prior to April 26, 1939. By order of May 11, 1960, division 1 assigned the petition filed October 7, 1958, for oral hearing at a time and place to be hereafter fixed, and directed that the substance of said petition, together with notice of such assignment, be published in the Federal Register.

HEARING: July 13, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James O'D Moran.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carrier of property or passengers under section 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F 7199, PENBROOK HAUL-ING CO., INC.—PURCHASE (PORTION)—HOWARD M. MESHARER AND GEORGE P. COOPER (LEONA E. COOPER, EXECUTRIX), published in the May 27, 1959, issue of the FEDERAL REGISTER on page 4285. Amendment to the application filed May 26, 1960, by John M. Musselman, Rhoads, Sinon & Reader, State Street Building, Harrisburg, Pa., to substitute DAILY EX-PRESS, INC., 65 West North Street, Carlisle, Pa., as vendee in lieu of PEN-BROOK HAULING COMPANY, INC., to purchase a portion of the operating rights of HOWARD M. MESHARER AND GEORGE P. COOPER (LEONA E. COOPER, EXECUTRIX), doing business as STATE TRANSFER COMPANY, 473 Horton Street, Wilkes-Barre, Pa., and for acquisition by D. E. LUTZ, 330 Washington Lane, Carlisle, Pa., U. D. LUTZ and H. B. LUTZ, both of 217 North Hanover Street, Carlisle, Pa., of control of such rights through the pur-DAILY MOTOR EXPRESS, INC., is authorized to operate as a common carrier in 48 States and the District of Columbia.

No. MC-F 7551. Authority sought for purchase by PROVAN PETROLEUM TRANSPORTATION COMPANY, INC., 210 Mill Street, Newburgh, N.Y., of the operating rights and property of CLIF-FORD JACKSON, 60 Wilkie Avenue, Kingston, N.Y., and for acquisition by FREDERICK J. PROVAN, also of Newburgh, of control of such rights and property through the purchase. Applicants' attorneys: John J. Brady, Jr., 75 State Street, Albany, N.Y., and Bert Collins, 140 Cedar Street, New York 6, N.Y. Operating rights sought to be transferred: Cement and lime, in bags, as a common carrier, over irregular routes; from the Village of Rosendale, N.Y., and points within two miles of Rosendale to points in Connecticut, New Jersey, New York, and Massachusetts within 150 miles of Rosendale, N.Y.; lumber, from Claryville, N.Y., to Edgewater, N.J., and New York, N.Y., and from Kerhonkson, N.Y., to Boston, Ipswich, and New Bedford, Mass., Old Bridge, N.J., and New York, N.Y. Vendee is authorized to operate as a common carrier in New York, New Jersey, Connecticut, Pennsylvania, Massachusetts, Rhode Island, Delaware, and South Carolina. Application has been filed for temporary authority under section 210 a(b).

No. MC-F 7552. Authority sought for purchase by BRIGGS TRANSPORTA-TION CO., 2360 West County Road C, St. Paul 13, Minn., of a portion of the operating rights and property of McCOY TRUCK LINES, INC., 1524 Grandview Avenue, Waterloo, Iowa, and for acquisition by GEORGE BRIGGS, 910 Broadway, Eau Claire, Wis., of control of such rights and property through the purchase. Applicants' attorneys: Glenn Stephens, 121 West Doty Street, Madison 3, Wis., Rex Fowler, 510 Central National Building, Des Moines 9, Iowa, and Winston W. Hurd, 2360 West County Road C, St. Paul 13, Minn. Operating rights sought to be transferred: General commodities, excepting, among others, household goods and commodities in bulk, as a common carrier over regular routes, between Chicago, Ill., and Cedar Falls, Iowa, between Cedar Falls, Iowa, and Fort Dodge, Iowa, between Waterloo, Iowa, and Fort Dodge, Iowa, between Waterloo, Iowa, and Tama, Iowa, between Mason City, Iowa, and St. Paul, Minn., and between Des Moines, Iowa, and the site of John Deere Des Moines Works plant. (former site of ordnance plant located within one mile of Ankeny, Iowa), serving certain intermediate and off-route points; alternate route for operating convenience only between Owatonna, Minn., and Austin, Minn.; general commodities, except those of unusual value, Class A and B explosives, commodities in bulk, and those requiring special equipment, between Omaha, Nebr., and Chicago, Ill., between Tama, Iowa, and junction U.S. Highways 6 and 63, between Tama, Iowa, and junction U.S. Highways 30 and 218, between Stanwood, Iowa, and Davenport, Iowa, between Hampton, Iowa, and Mason City, Iowa, and between Elgin, Ill., and Joliet, Ill., serving certain intermediate points: several alternate routes for operating convenience only; general commodities, except livestock and commodities requiring special equipment. between Waterloo, Iowa, and Floyd, Iowa, between Mason City, Iowa, and New Hampton, Iowa, between Mason City, Iowa, and Elma, Iowa, between Floyd, Iowa, and Austin, Minn., and between Waterloo, Iowa, and Cedar Rapids, Iowa, serving all intermediate points; general commodities, except those of unusual value, Class A and B explosives, and commodities in bulk, over irregular routes, between points in the Chicago, Ill., Commercial Zone, as defined by the Commission, limited to service in connection with traffic handled by carrier in its line-haul operations extending outside the said commercial zone; butter, eggs, and dressed poultry, from certain points in Iowa to Manchester, Dubuque, and Fort Dodge, Iowa, and Chicago, Ill.; canned goods, from Charles City, Iowa,

to Granger, Le Roy, Lyle, and Johnsburg, Minn.; chemicals, from Elgin and Chicago, Ill., to Charles City, Iowa; farm machinery and parts, from Charles City, Iowa, to Alexis, Quincy, and Springfield, Ill., South Bend, Ind., points in the Minneapolis-St. Paul, Minn., Commercial Zone, as defined by the Commission and Chemolite (formerly Scotchlite), Minn.; household goods, between Charles City, Iowa, and points within 15 miles thereof, on the one hand, and, on the other, points in Illinois, Minnesota, and Nebraska; malt beverages, from points in the Minneapolis-St. Paul, Minn., Commercial Zone, as defined by the Commission, and Chemolite (formerly Scotchlite), Minn., to Charles City, Iowa; nails, fencing, fencing supplies, and posts, from Sterling, Ill., to Manchester, Iowa; wheels, from Quincy, Ill., to Charles City, Iowa. Vendee is authorized to operate as a common carrier in Minnesota, Illinois, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7553. Authority sought for control by INDIANHEAD TRUCK LINE; INC., 1947 West County Road C, St. Paul 13, Minn., of MOORE MOTOR FREIGHT LINES, INC., 2091 Kasota MOTOR Street, St. Paul 13, Minn., and for acquisition by LESTER A. WILSEY, also of St. Paul, of control of MOORE MOTOR FREIGHT LINES, INC., through the acquisition by INDIANHEAD TRUCK LINE, INC. Applicant's attorney: Adolph J. Bieberstein, 121 West Doty Street, Madison, Wis. Operating rights sought to be transferred: General commodities, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, as a common carrier over a regular route between Minneapolis, Minn., and Chicago, Ill., serving Milwaukee, Wis., as an intermediate point, restricted to the transportation of (a) General Commodities, with the above-specified exceptions, moving from points in the Minneapolis-St. Paul, Minn., Commercial Zone, as defined by the Commission, and (b) Canned or preserved foodstuffs, cocoa, and chocolate coating, and used empty containers and skids, moving to points in the Minneapolis-St. Paul, Minn., Commercial Zone, as defined by the Commission; three alternate routes for operating convenience only; general commodities, excepting. among others, household goods and commodities in bulk, over irregular routes, from certain points in Minnesota to points in Iowa and Wisconsin (except Milwaukee), and between certain points in Minnesota, on the one hand, and, on the other, certain points in Illinois, and between St. Paul and Minneapolis, Minn., on the one hand, and, on the other, the Twin City Ordnance Plant in Mounds View Township, Ramsey County, Minn.; iron and steel articles, canned or preserved foodstuffs, canned goods, soap, soap chips, cleaning, bleaching, scouring, or washing compounds, sugar, empty metal containers, used empty containers and skids, and scrap or waste paper. from, to or between points and areas, varying with the commodity transported, in Illinois, Minnesota, Iowa, Wisconsin,

Nebraska, South Dakota, and North Dakota; those rights claimed in an application seeking a "grandfather" certificate under section 7 of the Transportation Act of 1958, which amended section 203(b) (6) of the Act, viz frozen vegetables, from Fairmont and Winnebago, Minn., to Chicago, Ill., and frozen fruits from Sturgeon Bay, Wis., to Minneapolis, Minn. INDIANHEAD TRUCK LINE, INC., is authorized to operate as a common carrier in Wisconsin, Minnesota, Illinois, Michigan, Iowa, South Dakota, North Dakota, Montana, Wyoming, Nebraska, and Missouri. Application has been filed for temporary authority under section 210a(b).

No. MC-F 7554. Authority sought for purchase by GORDONS TRANSPORTS, INC., 185 West McLemore, Memphis, Tenn., of a portion of the operating rights and certain property of HAYES FREIGHT LINES, INC., 617 Waughton Street, Winston-Salem, N.C., and for acquisition by A. W. GORDON, SR., and M. M. GORDON, both of Memphis, of control of such rights and property through the purchase. Applicants' attorneys: James W. Wrape, Sterick Building, Memphis, Tenn., and David Macdonald, Commonwealth Building, Washington, D.C. Operating rights sought to be transferred: General commodities, excepting, among others, household goods and commodities in bulk, as a common carrier over regular routes between New Orleans, La., and Meridian, Miss., and between Meridian. Miss., and the site of the U.S. Navy Jet Air Base, approvimately 15 miles from Meridian, Miss. (restricted to traffic which originates at, or is destined to, the said air base), serving certain intermediate and off-route points; agricultural commodities, over irregular routes, from points in Alabama and Louisiana within 150 miles of Hattiesburg, Miss., to Hattiesburg. Vendee is authorized to operate as a common carrier in Mississippi, Tennessee, Louisiana, Alabama, Illinois, Missouri, Arkansas, Indiana, and Kentucky. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7555. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif.; of a portion of the operating rights of WALTER ZANES, WALTER ZANES, JR., AND GLOVER FUNDERBURK, doing business as ZANES FREIGHT AGENCY, 1500 South Central Expressway, Dallas, Tex., and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., also of Menlo Park, of control of such rights through the purchase. Applicants' attorneys: Carl L. Phinney and Leroy Hallman, both of 617 First National Bank Building, Dallas, Tex. Operating rights sought to be transferred: General commodities, except liquid commodities in bulk, and except household goods, as defined by the Commission, and commodities requiring special equipment, as a common carrier over irregular routes, between points within five miles of Dallas, Tex., including Dallas. RESTRICTION: Service to points beyond two miles of Dallas, other than University Park and Highland Park, Tex., is restricted against transportation of livestock. Vendee is authorized to operate as a common carrier in Utah, Alaska, Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Washington, Kentucky, Michigan, Minnesota, Montana, Nebraska, Nevada, Wisconsin, Missouri, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, West Virginia, Wisconsin, Wyoming, Alabama, Hawaii, and Maryland. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7556. Authority sought for control by YELLOW TRANSIT FREIGHT LINES, INC., 92d Street at State Line Road, Kansas City, 14, Mo., of YELLOW BULK TRANSPORT, INC., 92d Street at State Line Road, Kansas City 14, Mo., upon the latter's institution of operations in interstate or foreign commerce as a common carrier by motor vehicle, for which application has been made as described below, and for acquisition by GEORGE E. POWELL and GEORGE E. POWELL, JR., both of Kansas City, of control of YELLOW BULK TRANSPORT, INC., through the acquisition by YELLOW TRANSIT FREIGHT LINES, INC. Applicant's attorneys: Homer S. Carpenter, 1111 E. Street NW., Washington 4, D.C., and Kenneth E. Midgley, 906 Commerce Building, Kansas City 6, Mo. YELLOW BULK TRANSPORT, INC., has concurrently filed an application on Form BMC 78 (Docket No. MC 119823) for a certificate of public convenience and necessity to transport flour, in bulk, over irregular routes, between all points in Arizona, New Mexico, Colorado, Wyoming, Montana, Texas, Oklahoma, Kansas Nebraska, South Dakota, North Dakota, Minnesota, Wisconsin, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Tennessee, Kentucky, Illinois, Indiana, Michigan, Ohio, West Virginia, Pennsylvania, New Jersey, New York, Maryland, Delaware, and the District of Columbia. YELLOW TRANSIT FREIGHT LINES, INC., is authorized to operate as a common carrier in Illinois. Kansas, Oklahoma, Missouri, Texas, Indiana, Kentucky, Michigan and Ohio. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7557. Authority sought for control and merger by ATLANTA-NEW ORLEANS MOTOR FREIGHT COM-PANY, 260 University Avenue SW., Atlanta, Ga., of the operating rights and property of ATLANTA-ASHEVILLE MOTOR EXPRESS, INC., 1010 North ATLANTA-ASHEVILLE Avenue NW., Atlanta, Ga., and for acquisition by H. BEALE ROLLINS and MRS. MARY E. ROLLINS, both of 629 Title Building, Baltimore, Md., and T. S. JOHNSON, 260 University Avenue, Atlanta, Ga., of control of such rights and property through the transaction. Applicants' attorneys: Allan Watkins and Paul M. Daniell, both of 214 Grant Building, Atlanta 3, Ga. Operating rights sought to be transferred: General commodities, except dangerous explosives. and except household goods as defined by the Commission, as a common carrier

over regular routes, between Atlanta, Ga., and Asheville, N. C., between Lawrenceville, Ga., and Athens, Ga., and between Atlanta, Ga., and Buford, Ga., serving certain intermediate and off-route points; general commodities, excepting, among others, household goods and commodities in bulk, between Commerce, Ga., and Lavonia, Ga., serving all intermediate and certain off-route points; general commodities, except Class A and B explosives, household goods as defined by the Commission, and liquid commodities in bulk, in tank vehicles, between Hollywood, Ga., and Toccoa, Ga., serving all intermediate points and restricted against the transportation of shipments moving between Toccoa and Atlanta, Ga., or points beyond Atlanta; carpets, carpeting, rugs, yarn, latex, latex compounds, textile machinery and textile machinery parts, scoured wool, rayon and synthetic fibre, and shipping containers, between Dahlonega and Rabun Gap, Ga., and Robbinsville, N.C. ATLANTA-NEW ORLEANS MOTOR FREIGHT COMPANY is authorized to operate as a common carrier in Georgia, Alabama, Florida, Louisiana and Mississippi. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL]

HAROLD D. McCoy, Secretary.

[F.R. Doc. 60-5177; Filed, June 7, 1960; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1308]

BROAD STREET INVESTING CORP.

Notice of Filing of Application for Order Exempting Sale by Open-End Company of Its Shares at Other Than Public Offering Price in Exchange for Assets of Private Investment Company

JUNE 1, 1960.

Notice is hereby given that Broad Street Investing Corporation ("Broad Street"), a registered open-end investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 22(d) of the Act the proposed issuance of its shares at net asset value for substantially all of the cash and securities of Hugest Company, Inc. ("Hugest").

Shares of Broad Street, a Maryland Corporation, are offered to the public on a continuous basis at net asset value plus varying sales charges dependent on the amount purchased. Hugest, a New York corporation, is an investment company with nine stockholders which engages in the business of investing and reinvesting its funds. Hugest is exempt from registration under the Act by reason of the provisions of section 3(c) (1) thereof. Pursuant to an agreement be-

tween Broad Street and Hugest, substantially all of the cash and securities owned by Hugest, with a value of approximately \$6,233,000 as of May 3, 1960, will be transferred to Broad Street in exchange for shares of its capital stock. It is the present intention of Broad Street. subject to changes in investment conditions and considerations, to hold the securities acquired, which consist principally of significant blocks of securities of six companies. The shares acquired by Hugest are to be distributed immediately to its shareholders who intend to take such shares for investment with no present intention of distribution or redemption. The number of shares of Broad Street to be delivered to Hugest will be determined by dividing the net asset value per share of Broad Street in effect at the closing time into the value of the Hugest assets to be exchanged.

The value of the assets of Hugest will be determined in substantially the same manner as used for calculating net asset value for the purpose of issuance of Broad Street's shares. Since the exchange will be tax free for Hugest and its shareholders, Broad Street's cost basis for tax purposes on the assets acquired from Hugest will be the same as for Hugest, rather than the price actually paid by Broad Street for the assets. The unrealized appreciation on the assets acquired from Hugest exceeds proportionately the unrealized appreciation on Broad Street's present assets. Thus, Broad Street will acquire securities from Hugest at a tax-cost basis less than the price actually paid therefor, and if any of the acquired assets are sold in the future, artificial capital gains may be realized and Broad Street's present shareholders will be subject to tax liability thereon.

To provide against the possible unfavorable tax consequence of a future sale of the assets acquired from Hugest, Broad Street proposes to adjust the aggregate market value of the acquired assets by deducting from such value an amount to be determined by the parties at the closing date, which amount is not to exceed \$95,900 and would have been \$82,338 at May 3, 1960. This adjustment shall consist first of \$25,900 representing an amount equivalent to 121/2 percent of unrealized taxable long-term capital gain of \$207,200 on a serial note to be acquired by Broad Street from Hugest. The balance, not to exceed \$70,000, shall represent an amount equal to 12½ percent of the increase in the amount of unrealized appreciation allocable to the present shareholders of Broad Street, giving effect to the acquisition of Hugest on a pro forma basis and making allowance for the amount of Broad Street's realized undistributed gains allocable to Hugest, which amount shall be reduced by the estimated savings in costs resulting from the acquisition from Hugest of investment grade securities in significant blocks at fixed market prices and the savings in operating costs to the shareholders of Broad Street anticipated to result over a reasonable period from this transaction. In the opinion of the Board of Directors of Broad Street, allowance for the capital and operating cost savings is appropriate only in consideration of the unusual nature of the securities portfolio of thugest and of certain other aspects of the transaction. Broad Street is furnished investment research and administrative facilities and services at cost under its arrangement with three other investment companies for the joint ownership and operation of Union Service Corporation. The total operating expenses of the company in 1959, inincluding investment research and administrative services, amounted only to 29 of 1 percent of the average value of assets.

The application recites that the terms of the entire transaction were arrived at through arm's-length bargaining between Broad Street and Hugest. The application further states that there is no affiliation or relationship of any kind between the officers and directors of Broad Street and the officers, directors, and stockholders of Hugest.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus, with certain exceptions not applicable here. Under the terms of the Agreement, however, the shares of Broad Street are to be issued to Hugest at a price other than the public offering price stated in the prospectus, which lists a sales charge of 2.22 percent for sales of \$250,000 or over.

Section 6(c) of the Act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 13, 1960, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary. Securities and Exchange Commission, Washington 2£, D.C. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DuBois, Secretary.

[F.R. Doc. 60-5165; Filed, June 7, 1960; 8:46 a.m.]

[File No. 70-3883]

CONSOLIDATED NATURAL GAS CO. ET AL.

Notice of Filing Regarding Issuance and Sale by Holding Company of Short-Term Promissory Notes to Banks and Intrasystem Issuances, Sales, and Acquisitions of Capital Stocks, Short-Term and Long-Term Promissory Notes

JUNE 1, 1960.

In the matter of Consolidated Natural Gas Company, The East Ohio Gas Company, Hope Natural Gas Company, Lake Shore Pipe Line Co., New York State Natural Gas Corporation, The Peoples Natural Gas Company, The River Gas Company; File No. 70–3883.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its subsidiaries, The East Ohio Gas Company ("East Ohio"), Hope Natural Gas Company ("Hope"), Lake Shore Pipe Line Co. ("Lake Shore"), New York State Natural Gas Corporation ("New York State"), The Peoples Natural Gas Company ("Peoples"), and The River Gas Company ("River"), have filed a joint application-declaration and amendments thereto with this Commission pursuant to the provisions of the Public Utility Holding Company Act of 1935 ("Act") and the rules promulgated thereunder. The companies have designated sections 6(a), 6(b), 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45, 50(a) (2) and (3), and 70(a) (4) (D) thereunder as applicable to the proposed transactions which are summarized as follows:

According to this filing the above named subsidiaries contemplate spending in 1960 an aggregate of \$64,500,000 for construction purposes and other plant requirements. Internal sources of the Consolidated system are expected to provide \$20,850,000 of such cash requirements and the \$43,650,000 balance will be provided (a) by the sale by Consolidated to banks of \$25,000,000 of shortterm construction notes; (b) by the use of \$15,000,000 of the proceeds derived from Consolidated's February 1960 sale of \$25,000,000 of debentures (\$10,000,000 having been used to pay off then outstanding short-term notes, (see Holding Company Act Release No. 14153)); and (c) by the use of \$3,650,000 of treasury cash of Consolidated. In addition, Consolidated will provide the cash needed to meet the 1960 gas storage inventory requirements of East Ohio, Hope, New York State, and Peoples by means of issuing and selling to banks \$35,000,000, of short-term promissory notes and will renew for one year \$30,000,000 of outstanding 4 percent construction notes. The \$43.650,000 of cash will be made available to the subsidiaries by means of intrasystem issuances, sales, and acquisitions of common stocks and short-term and long-term notes. Subject to market conditions and other circumstances, Consolidated, through long-term debt financing, intends to refund the \$25,000,-000 of short-term construction notes

\$35,000,000

\$30,000,000

\$25,000,000

Totals.

To carry out the 1960 financing program summarized above Consolidated to their maturity and possibly in 4 percent \$30,000,000 of

its category to be issued and bear interest at the prime rate of interest in effect at The Chase Manhattan Bank on such struction notes and \$35,000,000 of unsecured gas storage notes. Each note st issue date. All of the notes are be issued without a commitment fee (a) to issue and sell, from time to time during 1960 to the banks hereinafter named, \$25,000,000 of unsecured conwill mature not more than twelve months from the issue date of the first note of proposes herein

upon ten days prior written notice.
(b) to renew until July 1, 1961 its \$30,000,000 of unsecured construction.
4 percent notes which are outstanding with the banks hereinafter named, havin whole or in part from time to time,

ing been authorized by the Commission by order dated May 20, 1957. To further carry out the 1950 financing program of Consolidated and its sub-sidiaries it is proposed herein that:

long-term unsecured notes be issued and sold to Consolidated by East Ohio, Hope, New York State, and Peoples, \$20,000,000 of which are for refunding as indicated in Table I below: (a) \$35,000,000 aggregate amount of

newed, will mature June 28, 1961. dated's related and may be prepared without premium,

(c) \$3,650,000 of common capital

thereof, as follows: \$3,000,000 by Hope (30,000 shares of \$100 par value), \$400,000 by Lake Shore (40,000 shares of in 1960, at the aggregate par value \$10 par value), and \$250,000 by River stock be issued and sold to Consolidated

(2,500 shares of \$100 par value). Such stock will be issued to finance, in part, the 1960 construction programs of these subsidiaries. The number of authorized shares of capital stock of Lake Shore and River will be increased by 40,000 and 3,000 shares, respectively, to effectuate the proposed issues and sales. The \$29,600,000 of 4 percent notes, as relater than the maturity date of Consoli-

The banks from which Consolidated proposes to borrow and the amounts to be borrowed from each bank are indi-cated in Table III below:

TABLE III

For refunding purposes To raise new money To all purposes \$8,000,000 \$7,000,000 \$15,000,000 \$5,000,000 \$7,000,000 \$16,000,000 \$4,500,000 \$2,500,000 \$2,500,000 \$20,000,000 \$16,000,000 \$2,500,000				
\$5,000,000 \$7,000,000 \$115 2,500,000 2,500,000 5,000,000 8,000,000 8,000,000 8,500,000 8,500,000 8,500,000 8,500,000 8,500,000 9,500,00	Сотрапу	For refunding purposes	To raise new money	Totals
20, 000, 000 15, 000, 000	Bast Ohlo. Hope. New York State. Peoples.	స్ట్రి ర్శార్త్రమ	\$7,000,000 2,500,000 3,000,000 2,500,000	\$15,000,000 5,000,000 8,000,000 7,000,000
	Totals		15,000,000	35, 000, 000

in February 1960 of its 5 percent Debentures due February 1, 1955. Such notes will mature semi-annually in differing Such notes will bear interest at the rate of 5 percent per annum which rate is predicated on and substantially equal to the effective cost of money secured through the issuance by Consolidated

amounts with the last note of subsidiary maturing on January 31, (b) \$89,600,000 aggregate amou

short-term unsecured notes be issue sold, from time to time during 190 Consolidated by East Ohio, Hope, York State, Peoples, and River a forth in Table II below:

For gas storage To refund out- purposes standing 4 per- cent notes	\$8,500,000 5,500,000 19,500,000 1,500,000 1,500,000 1,500,000 1,500,000 1,000,000 1,000,000 1,000,000 1,000,000	35,000,000 29,600,000 89,600,0
To raise For money	\$10, 500, 000 4, 500, 000 5, 500, 000 6, 500, 000 4, 500, 000 1, 500, 000 1, 500, 000	25,000,000
Company	Bast Ohio. Hope New York State Peoples River	Totals

TABLE II

storage notes. The \$29,600,000 of 4 percent notes will extend for one year notes presently held by Consolidated and au-The \$25,000,000 of construction notes will provide cash for part of the 1960 con-The \$35,000,000 of gas storage notes will be repaid as gas is withdrawn from storage and sold during the 1960-61 heating season and with such note payments Consolidated will pay off its related gas struction programs of the subsidiaries.

maturity date of each note will not be by each issuing subsidiary, except in case of the gas storage notes where thorized by the Commission on Ma 1957. The \$25,000,000 of constru notes and the \$35,000,000 of gas st notes will bear the same rate of inf each note will mature not more twelve months after the date of iss as the related notes of Consolidate the first note of its category to be

\$35,000,000 gas storage n notes	\$12.000,000 000 22,776,000 000 22,776,000 000 11,580,000 000 11,580,000 11,580,000 11,580,000 11,580,000	2, 200, 000 00 1, 100, 000 450, 000 200, 000	225,000 00 150,000 00 150,000 	175,000 00 150,000 75,000 75,000 50,000		150,000	1,400,000 0 1,300,000 0 500,000	50,000	400,000	100,000
\$30,000,000 4 percent construction notes	\$11, 800, 000 1, 600, 000 3, 200, 000 1, 600, 000 1, 600, 000 1, 600, 000 1, 600, 000	2, 000, 000 1, 050, 000	200, 000 200, 000 150, 000	100,000	00 001	100,000	1,100,000 1,350,000 400,000	50,000		75,000 75,000
\$25,000,000 construction notes	\$6 2,000,000 1,1,000,000 1,1,000,000 1,1,000,000	1, 650, 000 600, 000 450, 000 150, 000	150,000 100,000 100,000 50,000	150,000	150 000	100,000	1,000,000 900,000 400,000 100,000	50,000 50,000	300,000 300,000	50,000
Banks	New York City: The Chase Manhattan Bank The Pirts Nathonal City Bank of N.Y The First Nathonal City Bank of N.Y Bankers Trust Co. of N.Y Bankers Trust Co. Othernical Bank New York Trust Co. The Hanover Bank Irving Trust Co. Manufacturers Trust Co.	OHO The National City Bank of Cleveland. The National City Bank of Cleveland. Union Commerce Bank. Central National Bank of Cleveland. Society National Bank of Cleveland.	Akron: First National Bank of Akron First National Bank The Dime Bank The Firestone Bank Ashabula: The Farmers National Bank & Trust Co.	The Harter Bank & Trust Co. First National Bank of Canton, Ohio First National Bank Conton, Ohio The Canton National Bank. The Peoples-Merchants Trust Co. Paineaville: Lake County National Bank of Painesville. Warren:	The Second National Bank The Union Savings & Trust Co Youngstown: The Mahoning National Bank	The Union National Bank of Youngstown, Ohio	Pittsburgh: Pittsburgh National Bank. Pittsburgh National Bank and Trust Co. The Union National Bank of Pittsburgh. Altoona: Altoona Central Bank & Trust Co.	Johnstown. United States National Bank Johnstown. NEW YORK	Elmira: Marine Midland Trust Co. of Southern N.Y. Syracuse: Marine Midland Trust Co. of Central N.Y.	Clarksburg: The Empire National Bank of Clarksburg. The Union National Bank of Clarksburg. Morgantown: The First National Bank of Morgantown: Parkersburg: The Parkersburg National Bank.
, Hope, ,000,000 dicated	otals 15, 000, 000 5, 000, 000 8, 000, 000	7,000,000 35,000,000 f each	unt of ted and 1960, to New	as set	otals	29,000,000	14,000,000 36,000,000 10,500,000 100,000	se, 600, 000 fay 20,	uction storage nterest	ed and than ssue of issued in the

Copies of the several applications of East Ohio, Hope, Lake Shore, Peoples and River to the appropriate State Commissions of Ohio, West Virginia, and Pennsylvania for requisite authorization of certain of the proposed transactions have been filed herein. Orders approving the issuances and sales of capital stock have been issued by the Public Utilities Commission of Ohio with respect to Lake Shore and River and by the Public Service Commission of West Virginia with respect to Hope. Orders have been issued by the Public Utilities Commission of Ohio authorizing the issuances and sales of \$10,000,000 of shortterm 4 percent promissory notes and an aggregate of \$15,000,000 of long-term 5 percent promissory notes by East Ohio; and the issuances and sale of \$100.000 of short-term 4 percent promissory notes by River. An order has been issued by the Public Service Commission of West Virginia approving, subject to certain conditions, the issuances and sales by Hope of an aggregate of \$5,000,000 longterm 5 percent promissory notes, of an aggregate of \$10,000,000 of short-term promissory notes, and \$4,000,000 of short-term 4 percent promissory notes. An order has been issued by the Pennsylvania Public Utility Commission authorizing the issuances and sales by Peoples of an aggregate amount of \$7,000,000 of long-term 5 percent promissory notes. It is represented that no other State commission and no Federal commission, other than this commission, has jurisdiction over the proposed transactions.

The estimated fees and expenses to be incurred in connection with the proposed transactions are as follows:

Total 5 150

Notice is further given that any interested person, not later than June 14, 1960, may request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law which he desires to controvert, or he may request that he be notifled should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date the Commission may grant and permit to become effective the joint application-declaration, as filed or as it may be further amended, as provided by Rule 23 promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided by Rules 20(a) and 100 thereof. or take such other action as it deems appropriate.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F.R. Doc. 60-5166; Filed, June 7, 1960; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

JUNE 1, 1960.

1. Plat of the extension survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska effective at 10:00 a.m. June 15, 1960.

SEWARD MERIDIAN

T. 11 N., R. 3 W., Section 11: All; Section 12: All; Section 13: All; Section 14: All; Section 24: All.

Containing 3,200 acres.

2. The land is located approximately fourteen miles southeast of Anchorage, Alaska. Most of the land to the east of the highway is mountainous, rolling ground with an elevation extending from 1,000 feet to a high of 3,000 feet.

The northern half of Sections 13, 14 and the southern half of Section 11 are drained by Potters Creek flowing southerly into Turnagain Arm. The soil is sandy loam, covered by brush and a stand of spruce trees.

3. a. Public Land Order 1654 dated June 13, 1958 partially revokes Public Land Order 576 dated March 29, 1949 as to the following described portion of lands concerned, subject to valid existing rights:

SEWARD MERIDIAN

T. 11 N., R. 3 W., Section 14: SW1/4; Section 24: S1/2.

b. The following described lands remain withdrawn under Public Land Order 576, dated March 29, 1949; for scenic purposes:

SEWARD MERIDIAN

T. 11 N., R. 3 W.,
Section 11: W½NW¼SW¼, SW¼SW¼,
SW¼SE¼SW¼, SW¼SW¼NW¼;
Section 14: W½NW¼, SE¾NW¼, W½
NE¼NW¼, SE¼NE¼NW¼, W½SE¼,
SE¼SE¼, S½NE¼SE½, NW¼NE¼
SE¼, S½SW¼NE¼.

4. Subject to valid existing rights and the requirements of applicable law, the lands described in paragraph one of this order and not withdrawn by paragraph three, are hereby opened to filing of applications, selections and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager, Anchorage Land Office, beginning on the date of this order. Such applications, selections and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraph:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to

allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the non-mineral public land laws, other than those mentioned under paragraph (1) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a.m. on September 14, 1960, will be considered simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws, beginning at 10.00 a.m. on September 14, 1960.

5. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

6. Applications for these lands, which shall be filed in the Land Office at Anchorage, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations to the extent such regulations are applicable. Applications under the homestead and homesite laws shall be governed by the regulations contained in Parts 64, 65, and 166 of Title 43 of the Code of Federal Regulations.

7. Inquiries concerning these lands shall be addressed to the Manager, Anchorage Land Office, Anchorage, Alaska.

IRVING W. ANDERSON,
Manager,
Anchorage Land Office.

[F.R. Doc. 60-5180; Filed, June 7, 1960; 8:49 a.m.]

[Group 329]

ARIZONA

Notice of Filing of Plats of Survey and Order Providing for Opening of Public Lands

MAY 31, 1960.

1. Pursuant to authority delegated by BLM Order No. 541 dated April 21, 1954 (19 F.R. 2473), as amended, notice is hereby given that the plats of survey accepted February 3, 1960, of T. 35 N., R. 5 W. and T. 36 N., R. 5 W., G&SRM, Arizona, including lands hereinafter described, will be officially filed in the Land Office at Phoenix, Arizona, effective at 10:00 a.m. on the 35th day after the date of this notice:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 35 N., R. 5 W., Sec. 1, Lots 1, 2, 3, 4, S½N½, S½; Sec. 3, Lots 1, 2, 3, 4, S½N½, S½; Sec. 4, Lots 1, 2, 3, 4, S½N½, S½; Sec. 5, Lots 1, 2, 3, 4, 5½N½, S½; Sec. 6, Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼, NW¼, E½SW¼, SE½; Sec. 7, Lots 1, 2, 3, 4, E½W½, E½;

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Sec. 18, Lots 1, 2, 3, 4, E1/2 W1/2, E1/2;
    Sec. 19, Lots 1, 2, 3, 4, E½W½, E½;
Sec. 30, Lots 1, 2, 3, 4, E½W½, E½;
    Sec. 31, Lots 1, 2, 3, 4, E 1/2 W 1/2, E 1/2;
    Sec. 8. All:
    Sec. 9, All:
    Sec. 10, All;
    Sec. 11, All;
    Sec. 12, All;
    Sec. 13, All;
    Sec. 14, All;
Sec. 15, All;
    Sec. 16, All;
    Sec. 17, All;
    Sec. 20, All;
    Sec. 21, All;
    Sec. 22, All;
    Sec. 23, All;
    Sec. 24, All;
Sec. 25, All;
    Sec. 26, All:
    Sec. 27, All;
    Sec. 28, All;
    Sec. 29, All;
    Sec. 32, All;
    Sec. 33, A11;
Sec. 34, A11;
    Sec. 35, All;
    Sec. 36, All.
T. 36 N., R. 5 W.,
Sec. 1, Lots 1, 2, 3, 4, 5, 6, 7, SW1/4NE1/4,
    S½NW¼, W½SE¼, SW¼;
Sec. 2, Lots 1, 2, 3, 4, S½N½, S½;
    Sec. 2, Lots 1, 2, 3, 4, S½, N½, S½;
Sec. 3, Lots 1, 2, 3, 4, S½, N½, S½;
Sec. 4, Lots 1, 2, 3, 4, S½, N½, S½;
Sec. 5, Lots 1, 2, 3, 4, S½, N½, S½;
Sec. 6, Lots 1, 2, 3, 4, S½, N½, S½;
Sec. 7, Lots 1, 2, 3, 4, S½, SE½;
Sec. 7, Lots 1, 2, 3, 4, E½, W½, E½;
Sec. 12, Lots 1, 2, 3, 4, E½, W½;
Sec. 13, Lots 1, 2, 3, 4, E½, W½;
Sec. 18, Lots 1, 2, 3, 4, E½, W½, E½;
Sec. 19, Lots 1, 2, 3, 4, E½, W½, E½;
Sec. 19, Lots 1, 2, 3, 4, E½, W½, E½;
    Sec. 18, Lots 1, 2, 3, 4, E½ W½, E½;
Sec. 24, Lots 1, 2, 3, 4, E½ W½, E½;
Sec. 25, Lots 1, 2, 3, 4, W½ E½, W½;
Sec. 30, Lots 1, 2, 3, 4, E½ W½, E½;
    Sec. 31, Lots 1, 2, 3, 4, E 1/2 W 1/2, E 1/2;
    Sec. 36, Lots 1, 2, 3, 4, W1/2 E1/2, W1/2;
    Sec. 8, All;
Sec. 9, All;
    Sec. 10, All;
    Sec. 11, All;
    Sec. 14, All;
    Sec. 15, All;
    Sec. 16, All:
    Sec. 17, All;
    Sec. 20, All;
    Sec. 21, All;
    Sec. 22, All;
    Sec. 23, All;
    Sec. 26, All;
    Sec. 27, All;
    Sec. 28, All;
    Sec. 29, All;
    Sec. 32, All;
    Sec. 33, All;
    Sec. 34. All:
    Sec. 35, All.
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Within the above-described areas are 45,123.65 acres.

- 2. Available data indicate that the lands in T. 35 N., R. 5 W., are composed of high table-land of the Kanab Plateau and are rolling in character. The soil is mostly sandy loam. T. 36 N., R. 5 W., is composed of a high rolling mountain top. In the southeast part the slopes are gentle. The soil is heavy, sandy clay and there is considerable exposed sandstone bedrock.
- 3. Executive Order No. 5339 of April 25, 1930, withdrew Sections 25 to 36 inclusive, T. 35 N., R. 5 W., for a National Monument. By Proclamation of the President dated December 22, 1932, Sections 25 to 36 inclusive, T. 35 N., R. 5 W.

were withdrawn for the Grand Canyon National Monument.

4. The following described lands are open to application, location, selection and petition as outlined below. No application for these lands will be allowed under the Homestead, Desert Land, Small Tract or any other nonmineral public land law, unless the lands have already been classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until

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they have been classified:
  GILA AND SALT RIVER MERIDIAN, ARIZONA
T. 35 N., R. 5 W.,
  Sec. 1, Lots 1, 2, 3, 4, S\2N\2, S\2;
  Sec. 3, Lots 1, 2, 3, 4, S1/2 N1/2, S1/2;
  Sec. 4, Lots 1, 2, 3, 4, S\( \frac{1}{2} \) N\( \frac{1}{2} \), S\( \frac{1}{2} \);
  Sec. 5, Lots 1, 2, 3, 4, S½N½, S½;
Sec. 6, Lots 1, 2, 3, 4, 5, 6, 7, SE¼NW¼,
S½NE¼, E½SW¼, SE¼;
  Sec. 7, Lots 1, 2, 3, 4, E1/2 W1/2, E1/2;
  Sec. 8, All;
  Sec. 9, All:
  Sec. 10, All;
  Sec. 11, All;
  Sec. 12, All;
  Sec. 13, All;
  Sec. 14, All;
  Sec. 15, All;
  Sec. 16, All;
  Sec. 17, All;
  Sec. 18, Lots 1, 2, 3, 4, E½W½, E½;
  Sec. 19, Lots 1, 2, 3, 4, E1/2 W1/2, E1/2;
  Sec. 20, All:
  Sec. 21, All;
  Sec. 22, All;
  Sec. 23, All;
Sec. 24, All.
T. 36 N., R. 5 W.,
  Sec. 1, Lots 1, 2, 3, 4, 5, 6, 7, SW1/4NE1/4.
    S1/2 NW1/4, W1/2 SE1/4, SW1/4.
  Sec. 2, Lots 1, 2, 3, 4, S½N½, S½;
  Sec. 7, Lots, 1, 2, 3, 4, E1/2 W1/2, E1/2;
  Sec. 8. All:
  Sec. 9, All:
  Sec. 10, All;
  Sec. 11, All;
  Sec. 12, Lots 1, 2, 3, 4, W½E½, W½;
Sec. 13, Lots 1, 2, 3, 4, W½E½, W½;
  Sec. 14, All:
  Sec. 15, All;
  Sec. 16, All;
  Sec. 17, All;
  Sec. 18, Lots 1, 2, 3, 4, E1/2 W1/2, E1/2;
  Sec. 19, Lots 1, 2, 3, 4, E1/2 W1/2, E1/2;
  Sec. 20, All;
  Sec. 21, All;
  Sec. 22, All;
  Sec. 23, All:
  Sec. 24, Lots 1, 2, 3, 4, W½E½, W½;
Sec. 25, Lots 1, 2, 3, 4, W½E½, W½;
  Sec. 26, All;
  Sec. 27, All;
  Sec. 28, All;
  Sec. 29, All:
  Sec. 30, Lots 1, 2, 3, 4, E1/2 W1/2, E1/2;
  Sec. 31, Lots 1, 2, 3, 4, E1/2 W1/2, E1/2;
  Sec. 32, All;
  Sec. 33, All;
  Sec. 34, All;
  Sec. 35, All:
  Sec. 36, Lots 1, 2, 3, 4, W1/2E1/2, W1/2.
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Subject to any existing valid rights and the requirements of applicable law. the lands described in paragraph 4 hereof, are hereby opened to filing applications, selections, and locations in accordance with the following:

- a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:
- (1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws presented prior to 10:00 a.m. on July 6, 1960, will be considered as simultaneously filed at that hour. Rights under such applications and selections and offers filed after that hour will be governed by the time of filing.

Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated state-ments in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

> ROY T. HELMANDOLLAR, Manager.

[F.R. Doc. 60-5161; Filed, June 7, 1960; 8:46 a.m.]

Office of the Secretary

[Order 2508, Amdt. 41]

BUREAU OF INDIAN AFFAIRS

Delegation of Accority

Section 13 of Order No. 2508, as amended (14 F.R. 258; 16 F.R. 11974; 17 F.R. 6418; 19 F.R. 34, 4585; 20 F.R. 167, 552; 21 F.R. 7655; 22 F.R. 2017, 3474; 23 F.R. 90, 1938; 24 F.R. 3703, 9514; 25 F.R. 2602), is further amended by addition of a new paragraph to read as follows:

Sec. 13. Lands and minerals. * * *

(ee) The approval of conveyances, including oil and gas leases, executed by Indian devisees of the Five Civilized Tribes under wills providing for such approval, involving interests in land which are subject to the provisions of the Act of August 4, 1947 (61 Stat. 731), and which have been approved by a county court of Oklahoma pursuant to that Act.

> FRED A. SEATON, Secretary of the Interior.

June 1, 1960.

[F.R. Doc. 60-5164; Filed, June 7, 1960; 8:46 a.m.1

CUMULATIVE CODIFICATION GUIDE—JUNE

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